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IIR Conferences – Energy Regulation 2007

Progress report on AER's assumption of gas transmission and distribution functions

Tuesday 20 March 2007

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Opening remarks

- Thank you for the opportunity to speak today about the AER's role in the developing energy regulatory framework

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- Today I will outline the AER's workplan in preparation for the assumption of responsibilities for distribution and gas transmission regulation in the coming year.
- At the present time the exact scope of these responsibilities is still being determined through legislative and policy processes, however it is fairly clear that the AER's workload will increase significantly from late 2007 as it prepares for its first distribution price reviews as well as a myriad of annual approval functions.
- The AER's preparations for the assumption of these responsibilities commenced at its inception in 2005 and have intensified over 2006, continuing to the present day. We have been working with our counterparts in the jurisdictional regulators and also with businesses to improve our understanding of the various issues that may arise in the transition to the new national regime.

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AER's existing functions

- To give a proper indication of the impact of these new functions for the AER, let me begin by outlining our existing workload.

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- The AER came into existence on 1 July 2005, taking on the functions of market monitoring and enforcement from NECA, and the economic regulation of electricity transmission networks from the ACCC. Staff from NECA and the ACCC's electricity and gas groups became most of the inaugural staff of the AER.
- We currently perform the economic regulation of electricity transmission networks, and advise the ACCC regarding gas transmission. We also perform a monitoring and enforcement role in the NEM.

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- Regarding electricity transmission networks, the AER has completed a revenue reset for Directlink and is currently involved in reset processes for
 - Powerlink
 - SP AusNet and VENCorp
 - with ElectraNet soon to commence.
- The AER also continues to annually report on TNSPs' financial and service performance and will release its next report shortly
- The AER also advises the ACCC in its reviews of access arrangements for gas transmission networks, including for the
 - Roma- Brisbane Pipeline
 - Moomba-Adelaide Pipeline

- Southwest QLD Pipeline
- and shortly for the Victorian Principal transmission system (Gasnet) pipeline network

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- In addition, the AER regularly reports its regulation and monitoring of the NEM through the following publications
 - Weekly and quarterly reports
 - Special investigations of market incidents (E.g. 16 January, 2007)
- These reports are continually improving in detail and rigour
- The AER expects to release a market enforcement strategy shortly and also its first State of the Market Report, which will be an annual publication.
- Finally, the AER is consulted on an ad hoc basis by the ACCC regarding energy specific merger activities

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New national regulatory framework

- For electricity, the new energy market regime consists of the National Electricity Law, under which sits the National Electricity Rules. And likewise for gas, there will be a National Gas Law, under which will sit the National Gas Rules.
- The body responsible for the development of energy policy and legislation is the MCE, while the AEMC is responsible for rule changes
- The AER will take on greater responsibility under the new national framework, although the specific functions have not as yet been finalised. The timing of recent developments are listed in the next table:

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- Some of these documents or sections of these documents have been released in their final form, such as the new Chapter 6A for transmission revenue and pricing rules. However, as can be seen from the table, much of the framework that the AER will be working under is still being developed.
- It is expected that the AER will assume new functions in the coming year in both the electricity and gas sectors. The MCE has stated that it intends to have the NGL and NGR and amendments to the NEL in place by 1 July 2007. Amendments to the NER relating to distribution revenue regulation are expected to take effect shortly after.

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- A further legislative package later in 2007 will deal with the transfer of retail and non-price distribution functions.
- It is also worth noting the influence the work of the Energy Reform Implementation Group (ERIG) may have on the development of the national energy framework. ERIG released a series of discussion papers setting out their initial views on energy reform in November 2006. There are some 80 recommendations, findings and areas identified for further comment and all in a very ambitious timeframe.
 - For example, ERIG has advocated moving to a national basis for transmission planning and has considered three options for a central national planning function.
- The AER awaits with great interest the outcome of the ERIG process, which will be considered by CoAG. The move towards a national transmission planning regime and changes to the Regulatory Test will have significant implications for the process of setting the allowable revenues for TNSPs.

The expected timeframe for the handing over of responsibilities to the AER is illustrated in the next graphic.

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Transfer of electricity distribution functions

- As alluded to above, the regulatory framework for electricity distribution regulation is still being developed. The MCE has indicated that the legislation for the transfer of distribution pricing to the AER needs to be in place by 1 July 2007. Reviews that begin after that date will be determined by the AER. Existing electricity distribution determinations will likely transfer some time after the legislation has passed.
- Current indications are that an Exposure Draft of the Rules relating to revenue regulation is likely to be released shortly and to take effect later in 2007, with other non-pricing functions to be dealt with through further amendments later in 2007.

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- The MCE has confirmed that the upcoming electricity distribution resets for businesses in the ACT and NSW will be determined by the AER along with all other reviews starting after 1 July 2007. This does not include the current Tasmanian review which will be completed by OTTER.
- Some functions such as licensing for technical and safety purposes and the setting of network service performance standards for distribution networks are likely to remain the responsibility of jurisdictions/Jurisdictional Regulators under the new framework.

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Transfer of gas transmission and distribution functions:

- The scope of the AER's future role in gas regulation is now reasonably clear, although it will be subject to some further development prior to the new NGL and NGR taking effect.
- Responsibility for the regulation of gas transmission networks (with the exception of those in WA) will pass from the ACCC to the AER following the passage of new gas legislation, likely to be by 1 July 2007. At present, the

AER advises the ACCC in this area and expects a smooth transition of these responsibilities.

- The transfer of economic regulation of gas distribution networks from jurisdictional regulators to the AER and AEMC is also expected to occur from 1 July 2007. This will include reviews of access arrangements that begin following that date, as well as the administration of existing access arrangements.

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Non-price distribution and retail regulation

- The scope of the AER's role in retail and distribution non-price regulation is still to be decided but is expected to be clearer in coming months.
- The AER is actively participating in the MCE Retail Policy Working Group's consultation on development of the 2007 legislative package to transfer non-price distribution and retail regulation to the national framework. The AER is a member of the RPWG's Stakeholder Reference Group and has made public submissions to the process.
- The MCE has not yet determined the scope of the AER's role in this area. More generally, we anticipate that a range of roles performed by Jurisdictional Regulators will transfer to the AER, with the exception of any roles that would be characterised as "rule-making" roles, which would go to the AEMC. For example, it is expected that compliance and enforcement responsibilities would transfer to the AER.

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Implications for the AER

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- The AER will face tight timelines, particularly from mid 2008 when it commences its first electricity distribution resets simultaneously with the transmission resets for NSW and Tasmania.
- In terms of price determinations for all regulated networks, the AER will be responsible for regulating prices for over 40 nationally significant businesses. The number of reviews undertaken by the AER will rise from an average of two a year to eight per year. (Note however that this increase includes the transfer of gas transmission responsibilities for which the AER currently advises the ACCC.) At the peak of the review work in 2010, the AER will undertake simultaneous reviews for 12 network businesses.
- While some uncertainties remain, the eventual handover of the new national regulatory framework will clearly impact on the scope and scale of the AER's functions.
- We are also reviewing our workload in terms of intra-review functions such as annual pricing approvals and to that end have entered into arrangements with jurisdictional regulators to better familiarise ourselves with these processes. The AER has arranged staff secondments to the ICRC and IPART to assist the transfer of information on existing distribution processes to the AER. Similar arrangements are also planned for other jurisdictions.
- The timing of revenue resets is illustrated in the next chart.

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- Each block depicts a reset process of 12 months. The height of each block represents the approximate value of the network. Reviews for gas networks are represented in green, while those for electricity are in blue – the shadings refer to transmission or distribution businesses.

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AER Preparations

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- The AER is committed to ensuring a smooth transition to the new national framework. In all our endeavours, existing and new, we strive to implement best practice regulation in terms of:
 - having consistent and timely processes, which are established and communicated up front
 - streamlining implementation requirements through standard information templates and guidelines
 - trying to minimise regulatory burden and intrusiveness, but balancing this against the need to deliver robust decisions and improved market outcomes
 - effectively engaging all stakeholders, including user representatives
 - As mentioned, the AER already has considerable experience in access reviews and annual tariff approvals for gas transmission networks and does not expect any transitional issues when these functions are formally transferred from the ACCC.

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- I would now like to talk about the AER's current work program:
 - First distribution resets in NSW/ ACT
 - Regulatory guidelines for electricity transmission and distribution
 - Consultation
 - Internal organisation

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NSW/ACT distribution resets

- Preparation for its first electricity distribution price resets is a significant project for the AER.
- The AER has established a dedicated team of staff for these reviews which are expected to commence in late 2007. The AER is continuing to liaise with the ICRC, IPART, and businesses to ensure a smooth transition. Furthermore, our staff placements in the ICRC and IPART will assist the transfer of information relevant to these reviews.
- This has also meant taking a close interest in the distribution policy development work to ensure the AER's approach to distribution will be consistent with the new NEL and NER.

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Publication of Guidelines

- In 2006 the AER released its Statement of Approach, which outlined a process for consultation on the development of guidelines for electricity distribution regulation. This was aimed at providing guidance to stakeholders on the AER's intended process for guideline development. This process was largely driven by the time constraints created by the approaching NSW and ACT resets, and is being reviewed as we await the NER exposure draft.
- Given the delays in amendments to the legislative framework for electricity, particularly the distribution rules, the AER is reconsidering its consultation process and will inform interested parties of its approach in due course.

- It is also worth mentioning here that the AER is currently consulting on guidelines for electricity transmission as required under the new chapter 6A. There are likely to be synergies between these and the distribution guidelines, although the AER is sensitive to the differences between the two types of networks and will deal with these accordingly.
- The AER is currently assessing the need for corresponding guidelines in gas distribution in light of gas Rules development.

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Consultation

- The AER is committed to detailed consultation with stakeholders in the implementation of the new national framework.
- The AER has been meeting with industry and user groups on an informal basis, including through the establishment of working groups such as that with the ENA.
- We are considering how user groups can be accommodated as part of revenue reset processes. The AER would like to ensure that consultation processes are cost effective for user groups, including user groups representing rural customers or particular regions.
- This might include the use of:
 - Formal committees (and less formal smaller groups focussing on particular matters)
 - Reset specific committees
 - Standing committees meeting on an ongoing basis
 - Increased informal discussions, and
 - Increased informal discussions – the AER has (or will have) significant offices in Melbourne, Canberra, Sydney, Brisbane and Adelaide – so we will have a strong local presence in most of the NEM jurisdictions.

Internal Organisation

- The AER is also preparing internally for its new functions and increased workload.

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- At each meeting the AER Board is briefed through several standing items relating to the most recent developments in the legislative framework, and also ongoing work relating to transitional issues.
- Below this, staff have established a committee which meets fortnightly to discuss key transitional issues.

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- Staff numbers have also increased with increasing responsibilities
 - Currently over 70 staff
 - Offices in Canberra, Melbourne, Sydney and Adelaide
 - Expect to number 120-130 staff in two years
 - Brisbane office planned
- While there is a significant task ahead, the Board is confident that the AER will be well prepared

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- Questions?