



# **New Energy Market Regulatory Framework**

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Investor client luncheon  
Macquarie Bank, 1 Martin Place, Sydney  
14 September 2005

# Issues for discussion:

- The new energy market regulatory framework
- Role of the AER
- Implications for the sector
- Infrastructure regulation debate
- Key issues for the sector

# Energy regulatory agencies

## Australian Energy Market Commission

- NEM rule making
- NEM development
- Gas market rule making / market development (from January 2007)
- Complying with policy directions issued by the MCE

## Australian Energy Regulator

- Electricity transmission regulatory functions
- Monitoring, reporting and enforcement of compliance of national electricity law and market rules
- Economic regulator of gas and electricity distribution networks (from January 2007)
- Non-price retail regulation (from January 2007)

## Australian Competition & Consumer Commission

- Competition regulator and anti-competitive conduct and authorisation (TPA Part IV/VII)
- Mergers / Acquisitions (TPA Part IV)
- Consumer protection (TPA Part V)

# Australian Energy Regulator:

- Will become a “one-stop-shop” regulator for the energy sector
- Will assume role as national regulator on a staged basis
- Funded by the Commonwealth
- Is an independent legal entity (Part III AA of TPA) but a constituent part of the ACCC

# Benefits of the new regulatory framework

- Clear separation of regulation from policy development
- More streamlined
- National consistency
- Reduced regulatory costs and greater certainty
- Clear accountabilities
- Defined policy role for Government

# Energy regulatory framework still under intense review:

- Review by AEMC of Chapter 6 of NEM Rules relating to transmission regulation and pricing
- Review of the National Gas Pipeline Access Regime
- Review of MCE energy distribution and retail regulation
- Prime Minister's Infrastructure Taskforce Review

# How the AER will work

- AEMC, AER and ACCC empowered to share relevant information
- AER responsible for making regulatory decisions independent of ACCC
- AER required to act in long term interests of national electricity market
  - Promote greater investment, interconnection, efficiency and security of supply

# National Electricity Market objective

- Single clear national objective:  
*“To promote efficient investment in, and use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability and security of supply and the safety, reliability and security of the national electricity system.”*
- Market must be competitive, open, and without favouritism

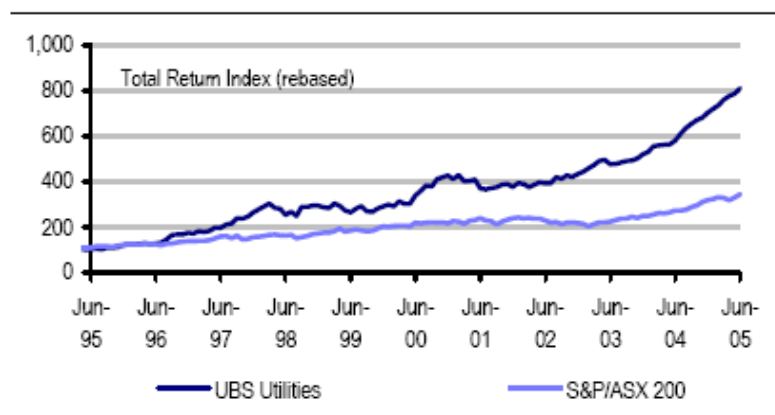


# AER enforcement

- Responsible for bringing court proceedings for breaches of National Electricity Law and Rules
- Power to apply directly to magistrate for search warrants
- Maximum penalties of \$100,000 and \$10,000 per day
- Court may order disconnection
- Decisions can be appealed and dispute resolution panel available

# Energy infrastructure regulation: relevant facts

- There is no regulatory infrastructure crisis
- 14,000 kms of new gas pipeline since 1997 = doubling of pipeline length in 7 years to 28,000 kms
- \$4.8 billion in electricity transmission investment since 1999
- Utility assets have significantly out-performed. UBS Utilities Index 10 year compound annual return of 22.9% versus ASX200 of 12.2%.



Source: UBS, Standard & Poor's

## Energy infrastructure regulation: relevant facts (cont.)

- Fitch Ratings: *“the current regulatory regime appears relatively supportive for transmission entities”*
- Allen Consulting Group: *“the Australian regulatory framework is providing adequate scope for companies to earn appropriate returns in the energy infrastructure industry”*
- Moody’s: *“transmission and distribution companies in Australia continue to benefit from regulatory regimes which enhance cash flow reliability”*

# Regulation and investment

- Conclusions:
  - The regulation regime has been good for infrastructure investment
  - It will improve further with a nationally consistent regulatory framework across gas and electricity
  - We need to be mindful of investment imperatives within the sector (national consumption growth for 2004/05 of 5% per annum compared to 3.4% and 1.9% in two prior years. Also there are ageing assets.)

# Regulation and investment

- Conclusions (cont.):
  - Challenge is to ensure regulation supports the market by promoting timely, efficient, capital expenditure **but**
  - without relaxing the focus on exercise of monopoly power over prices.
  - Effective regulation promotes broader economic growth: for example, ACIL Tasman finding that relaxing current framework would negatively impact GDP by \$11 billion over 15 years.

# AER and Energy Regulation

- Keen to pursue ways to improve the quality of regulation. Looking at:
  - consistent and timely processes established well up front
  - streamlining implementation requirements through standard information templates
  - strengthening incentive arrangements
  - ways to make regulation less intrusive but still robust
  - ways to effectively engage stakeholders

# AER's priorities

- Regulation quality
- Smooth transition to national framework
- Resourcing / process planning
- Market monitoring

# Regulatory approach

- Should there be a fundamental shift away from “revenue capping / price caps” based on building block approach?
- Light-handed regulation – what does it mean? Triggers? ESAA wants: “light-handed regulation, at low cost, delivers high quality regulatory decisions and includes merit and judicial review”.
- AER’s “Compendium of Electricity Transmission Regulatory Guidelines”.



# Broader issues for the sector

- Further development and implementation of new regulatory framework
- Price signals for end users
- Retail competition
- Investment in generation
- Mergers / acquisitions