



AER

AUSTRALIAN
ENERGY
REGULATOR

ANNUAL
REPORT
2012–13



OUR GOALS AND VALUES

We aim to make energy markets work better for consumers. Our decisions are guided by the objectives set out in national energy legislation. These aim to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply.

To achieve these objectives, we will pursue the following goals:

- promote efficient investment and operation of energy networks
- build consumer confidence in energy markets
- promote competitive and efficient energy markets
- strengthen stakeholder engagement in energy markets and regulatory processes.

In pursuing these goals, we will maintain our core values:

- Independent: We pursue the objectives in the national energy legislation objectively and transparently.
- Expert: We make timely decisions based on evidence and rigorous analysis.
- Strategic: We make best use of our resources and act in a considered and targeted fashion.
- Trustworthy: We communicate honestly and directly and act respectfully.

OUR BUSINESS

Consumers

We protect the interests of

OVER 4 MILLION

household and small business energy consumers by enforcing the Retail Law. We assist consumers to engage with energy markets and obtain the best offer through education and EnergyMadeEasy.com.au, which helps consumers to compare energy offers and their usage.

Commercial



Residential

Retail markets

We enforce retail energy market laws and monitor the conduct of 36 authorised retailers and other energy sellers. We approve customer hardship policies, operate a scheme to protect customers/markets when retailers fail and report on market outcomes.

36

authorised retailers

Wholesale markets

We enforce the laws for the national electricity market and four wholesale gas markets (Victoria, Sydney, Brisbane and Adelaide). We monitor and report on the conduct of over 280 registered market participants. These markets have an annual turnover in excess of \$12b.

280 registered participants

\$12b annual turnover

The Australian Energy Regulator regulates energy markets and networks. Our independent Board has one Commonwealth member and two state and territory members.

The AER's energy network regulation and wholesale market functions cover all states and territories except Western Australia (in the Northern Territory we regulate only gas transmission). Our retail energy market functions cover South Australia, Tasmania, Australian Capital Territory and, as of 1 July 2013, New South Wales.

OUR STAFF AND LOCATIONS

Total AER staff: 126

(excludes corporate staff, lawyers and specialist regulatory economists)



Networks

We set the prices charged for using energy networks (electricity poles and wires and gas pipelines) that transport energy to customers.



We regulate:

		Asset base
7	electricity transmission networks/lines	\$20b
13	electricity distribution networks	\$64b
10	gas distribution networks	\$9b
4	gas transmission networks/pipes	\$1b

Total \$94b

OUR STRUCTURE

AER BOARD

Andrew Reeves (Chair)
Cristina Cifuentes
Ed Willett (until May 2013)
Jim Cox (from 9 September 2013)

AER CEO

Michelle Groves

Deputy CEO,
Regulation, ACCC

Wholesale
Markets
Branch

Network
Regulation
Branch

Network Operations
and Development
Branch

Retail
Markets
Branch

OUR OPERATING ENVIRONMENT

SCER — The Standing Council on Energy and Resources includes the Commonwealth, State and Territory energy ministers and guides energy policy and changes to energy legislation.

AEMC — The Australian Energy Market Commission is the rule maker, and also undertakes policy reviews.

AEMO — The Australian Energy Market Operator operates the wholesale energy markets and undertakes oversight of national planning and transmission planning in Victoria.

State/Territory regulators — Set regulated retail prices (except in Victoria and South Australia).

HIGHLIGHTS

Better Regulation

Fundamental reforms to the rules for regulating network businesses were finalised, in response to our rule change proposal.

7 We are now developing 7 new guidelines to deliver the improved network regulatory framework.

8 We established 8 stakeholder working groups to consider the new Better Regulation guidelines, including a consumer reference group.

The guidelines focus on promoting the long term interests of electricity consumers, including:

- taking a new approach to set the rate of return that businesses earn on their investments (for gas and electricity networks)
- improving how we assess energy business' expenditure proposals, including benchmarking
- creating the right incentives to encourage efficient spending by businesses
- encouraging more effective consumer engagement strategies.

Revenue determinations

We completed 7 network pricing decisions and commenced 5. We approved over \$5.1 billion in total revenue allowances.

7
completed
network
pricing
decisions

5
commenced

\$5.1 billion
approved in
total revenue
allowances.

OF THE YEAR

Consumers

We successfully launched our **Energy Made Easy** website.

271 000

unique page views on the website.

13 000

visits per month to the website (after South Australia introduced the Retail Law).

Over 1000

published offers on Energy Made Easy for residential and small business customers, providing consumers with a user friendly way to compare energy offers and their energy use.

We appointed **13** members to our inaugural **Consumer Challenge Panel** to help ensure our decisions on network costs incorporate the interest of consumers.



Retail markets

We commenced our roles under the Retail Law in 3 states/territories (South Australia, Tasmania and the ACT), with NSW commencing on 1 July 2013.



5 Audits

194
Compliance
matters

Wholesale markets

We completed 5 audits of generators and pipelines. Our timely compliance and enforcement activities included assessing 194 compliance matters.

Australian Energy Regulator

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The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.

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Chair's review

I am pleased to introduce the Australian Energy Regulator's (AER) first annual report.¹ It details our work in 2012–13 and comments on our performance against a range of indicators. It also aims to provide stakeholders with more transparency about our work and the organisation.

Significant changes are occurring in the way in which energy markets operate, creating challenges for energy consumers, businesses, regulators and policy makers. We undertook our work program in 2012–13 in the context of community concerns about whether energy markets are functioning efficiently and delivering services at reasonable prices. There were reviews across the full spectrum of regulation, some of which are ongoing. We participated in these reviews, and the outcomes helped shape our strategic priorities in 2012–13 and will continue to drive change in the year ahead.

The most significant reform was a major overhaul in November 2012 of the energy rules setting out how network prices are determined. Initiated by our rule change proposals to the Australian Energy Market Commission (AEMC), the reform strengthened our capacity to set network prices so consumers do not pay more than necessary for a reliable energy supply. Since December 2012, we have been consulting with stakeholders on guidelines to implement the reforms.

Other reviews in 2012–13 identified shortcomings in the arrangements for Australian Competition Tribunal merits review of our decisions, and proposed reforms to empower consumers to save on energy costs by shifting consumption from peak times. Alongside these developments, we acquired significant new retail market functions, continuing a shift from jurisdictional to national regulation of the energy sector. The reforms introduced new consumer protections and underpinned the launch of our Energy Made Easy website.

¹ Our previous annual reporting was integrated into the Australian Competition and Consumer Commission's (ACCC) annual report. The ACCC annual report will continue to contain AER content, including the combined ACCC/AER financial statements formal performance report under s 44AAJ of the *Competition and Consumer Act 2010*, reflecting our integrated budget, performance and accountability framework.

PERFORMANCE AGAINST STRATEGIC PRIORITIES IN 2012–13

We set ourselves three strategic priorities for 2012–13: promoting more effective network regulation; fostering customer confidence and engagement through our new retail functions; and fostering competition in wholesale energy markets. Our significant progress against those priorities is outlined below.

Priority 1 Promoting more effective network regulation

In 2011 we proposed changes in the national energy rules that determine how network prices are set. In particular, we considered the rules were causing consumers to pay more than necessary for energy network services. The AEMC consulted widely on our proposal before announcing a major overhaul of the energy rules in November 2012 that addressed our concerns. We assisted the AEMC by providing submissions during its review.

The new rules require a more balanced assessment of the need for efficient investment to deliver a reliable energy supply, and the need to minimise costs to consumers. Achieving this balance is central to meeting the long term interest of consumers as set out in the energy legislation. The key reforms expand the role of benchmarking in setting expenditure allowances; introduce a more market oriented approach to setting rates of return; and provide for new incentive schemes to encourage efficient investment. They also address a significant weakness in the regulatory framework—that is, that it did not readily accommodate consumer engagement.

In December 2012 we launched the ‘Better Regulation’ program to implement the reforms in time for the next round of regulatory determinations (of which the first comes into effect in 2015). A key focus during 2013 has been to develop guidelines setting out our approach. We released issues papers in the first six months of the year and expect to complete all guidelines by November 2013.

We also established a Consumer Challenge Panel, to help us incorporate consumers’ interests in our decisions on the prices charged by energy network businesses. The panel comprises individuals with consumer, regulatory or energy experience and expertise. The panel will advise us on matters such as whether regulatory proposals by network businesses are in the long term interests of consumers, and whether the businesses are engaging effectively with consumers and have reflected consumers’ views in their proposals.

We are undertaking extensive consultation as part of the Better Regulation program. We established a Consumer Reference Group in December 2012, which has made it easier for consumer representatives to participate meaningfully in our guidelines development and to inform us of issues that affect them. Group members are encouraged to consult on issues with their constituents and report back to us. This process is an efficient way of managing consumer consultation, given the complexity and volume of material on which we seek input. The group first met in early 2013 and will continue to meet monthly throughout the guidelines development until November 2013.

Aside from our work related to the new rules, in 2012–13 we continued to improve our regulatory approach by:

- increasing our inhouse technical capability (including engineering capability) to ensure our decisions reflect a good understanding of network businesses’ technical issues and to help develop and implement new regulatory approaches
- initiating the development of new and revised network performance and benchmarking reports to enhance comparisons across businesses
- improving our data systems, information requirements, analysis techniques and metrics to better inform our regulatory decisions
- making our decision documents more accessible to encourage more constructive engagement in the regulatory process and improve transparency.

Priority 2 Fostering customer confidence and engagement through our new retail functions

We acquired significant new retail market functions on 1 July 2012, when Tasmania and the Australian Capital Territory (ACT) adopted the National Energy Retail Law. South Australia then adopted the law on 1 February 2013. In 2012–13 we worked closely with jurisdictional regulators in South Australia and New South Wales (scheduled to adopt the law on 1 July 2013) to ensure a smooth transition to the national arrangements.

The Retail Law aims to promote retail competition and empower consumers to negotiate energy contracts that suit their needs. It strengthens the position of consumers in areas such as hardship, retailer failure, access to digestible market information, and disconnections. In 2012–13 we focused on ensuring all stakeholders understand how the law affects them, and that our own procedures and systems provide appropriate support to consumers and energy businesses.

On 1 July 2012 we launched the Energy Made Easy price comparison website (www.energymadeeasy.gov.au) to help small customers compare energy offers available to them. It also provides useful information on the energy market and consumer protections. The website has been well received, with an average of 13 000 hits per month since South Australia introduced the Retail Law. The price comparator function is limited to consumers in those jurisdictions that apply the Retail Law. But other information on the website—such as a benchmarking tool for consumers to compare their electricity use with similar houses in their area—is available nationally.

During the year we also looked to strengthen consumer awareness and understanding by publishing educational materials on matters such as how to understand retail energy offers, and consumer protections and obligations (such as door-to-door selling, cooling off provisions and customer hardship arrangements). We also developed strategic relationships with groups—including financial counsellors and community legal centres—that are often in the ‘front line’ of engagement with disadvantaged and vulnerable energy consumers. These relationships provide opportunities for us to disseminate educational information and identify gaps in consumers’ understanding of energy markets.

One of our key roles is to build consumer confidence by monitoring the compliance of energy businesses with the law and taking timely action to mitigate the impacts of any breaches. We maintain close relationships with energy ombudsman schemes in all jurisdictions, allowing us to identify issues in the market and focus our resources. An outcome of this activity is twice yearly compliance reporting; our first report was published in March 2013.

In October 2012 we took enforcement action over incidents in which customers requiring life support equipment lost energy supply due to errors by their distributor. Given the potentially serious impact of these incidents, we will maintain a strong compliance focus on this area.

We engage closely with new energy providers to ensure they have appropriate consumer protections in place. In 2012–13 we approved six applications for new retailers to enter the market, and we approved the hardship policies of those with residential customers, as the Retail Law requires. The policies cover avenues of support, such as flexible payment options, energy efficiency information and help to access government rebate and concession programs.

Priority 3 Fostering competition in wholesale energy markets

In 2012–13 we worked to remove impediments to efficiency and competition in wholesale electricity and gas markets. A key focus was transmission network congestion that caused widespread disorderly bidding (generators making bids and rebids without reference to underlying supply costs) in the spot market. This bidding behaviour caused significant market volatility, including trade flows contrary to price signals, and damaged inter-regional competition and trade in electricity.

We progressed measures to mitigate these issues. As an example, we engaged extensively in the AEMC's Transmission Frameworks Review, including releasing a report in December 2012 to explain how network congestion in central Queensland, New South Wales and Victoria caused generators to engage in disorderly bidding. While supporting the AEMC's recommendations on solutions to this issue, we began developing an interim solution that would require generator ramp rates to reflect the generator's plant technical capability. We also focused on generators not following dispatch instructions, and revised the service target performance incentive scheme for transmission businesses so they have clearer financial incentives to implement low cost solutions that reduce congestion.

During the year we completed a project to reduce the incidence of missing, late or incorrect data submitted by pipeline operators. The project aimed to improve the efficiency of spot gas markets, which rely on accurate data to function competitively. Our efforts in this area—and the positive responses of gas pipeline businesses—led to a marked reduction in data errors. We also commenced a project to improve the accuracy of demand forecasting in spot gas markets. Having identified market participants with deficient performance, we are working with them to make improvements. More generally, our market monitoring in 2012–13 identified issues with the bidding practices of some participants, and in October 2012 we published a compliance bulletin on this issue.

OUTLOOK AND CHALLENGES

The dynamic environment in which energy markets operate will continue to pose challenges in 2013–14. But many reforms are in train to make the energy sector more accountable to consumers, enhancing consumers' ability to influence policy and price outcomes. As noted, our future regulatory reviews will involve more constructive consultation with consumers, and a Consumer Challenge Panel will assess whether network pricing proposals and our decisions reflect consumer interests. Notwithstanding these improvements to the regulatory regime, network pricing decisions are still inherently complex. Building consumers' ability to engage in our decision making will be a challenge, particularly in the short term.

The reforms of 2012–13 are likely to be followed in 2013–14 by rule changes to address the widening gap between average and peak energy demand, with 20–30 per cent of network capacity being used less than 1 per cent of the time. The AEMC's *Power of choice*² reforms include requirements on time varying pricing (to encourage consumers to shift their energy use away from peak times), and stronger incentives for demand side participation. Additionally, the Council of Australian Governments (COAG) in December 2012 recommended the adoption of a national approach to reliability standards, reflecting consumer valuations. This reform would affect how we evaluate network businesses' investment proposals.

In New South Wales, over three million retail customers will move to national regulation under the Retail Law on 1 July 2013, giving them enhanced protections and access to pricing information on the Energy Made Easy website. We will continue to focus on improving consumer confidence and information to strengthen consumers' engagement and ability to exercise informed choice in the retail market. As an example, we will review the Energy Made Easy website to increase both ease of use and consumer accessibility. More generally, we will engage with consumer intermediaries to develop and implement strategies to address barriers to effective engagement by consumers in energy markets.

² AEMC, *Power of choice review—giving consumers options in the way they use electricity—Final Report*, November 2012.

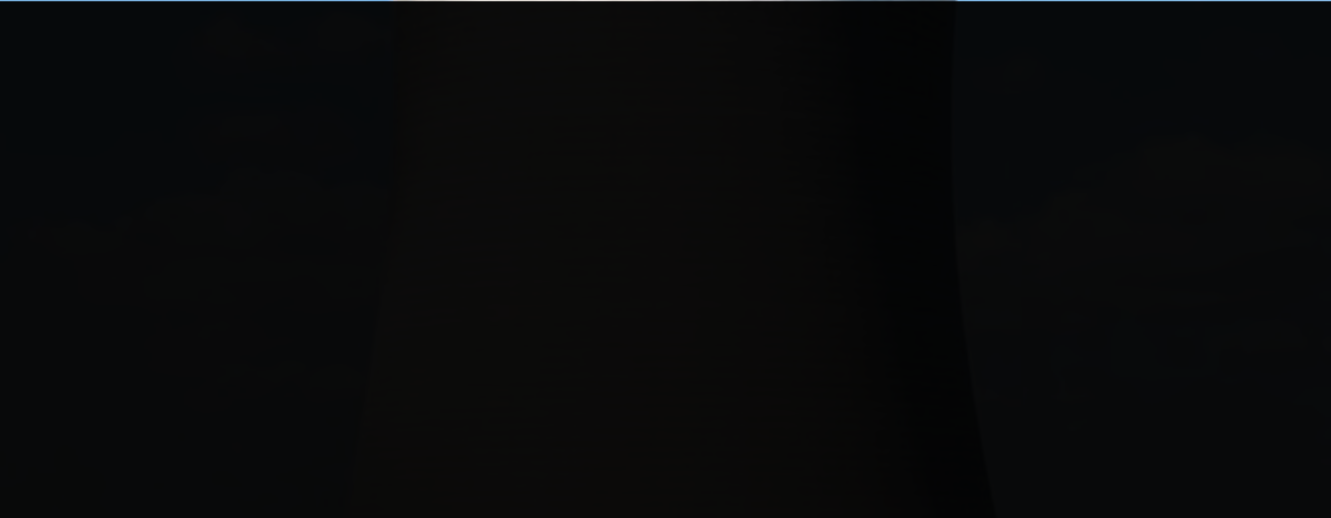
For networks, we will progress our implementation of the Better Regulation reforms by finalising guidelines in close consultation with stakeholders, and starting to apply the new rules in the next round of our regulatory reviews.

The challenges of the current operating environment, and our expanding role in retail markets, place an emphasis on our resourcing and capacity to undertake our regulatory functions. As a developing organisation that aims for continuous improvement, one of our strategic priorities for 2013–14 is to make internal improvements. These improvements include enhancing our technical capacity and information systems and making our operations more transparent (by launching this new annual report, for example). We will also commission and publish a third stakeholder survey of our effectiveness as an energy regulator. The survey will assess stakeholder satisfaction with our timeliness; our engagement with energy consumers, businesses and governments; and the quality of reasoning and explanation in our regulatory decisions, compliance activity and other communications. The outcomes will help measure whether we are improving our performance, and identify what we need to do better.

Finally, I thank AER board members, management and staff for their contributions over the past year. Through their dedication and professionalism, they contributed positively to reforms to the operation of Australia's energy markets—an achievement that benefits all energy consumers.

Andrew Reeves
Chair
Australian Energy Regulator





PART 1
GOVERNANCE, MANAGEMENT
AND STAKEHOLDER
ENGAGEMENT





Image: Hyrdro Tasmania

Good governance is fundamental to us helping deliver an energy market that serves the long term interests of consumers. We strive to incorporate good governance in our decision making and our business practice. It means we are structured to make timely, evidence based, independent decisions. It also means we can manage risks appropriately, act with integrity and engage effectively with our stakeholders.

OUR LEGISLATIVE FRAMEWORK

The Australian Energy Regulator (AER) is established as an independent entity under the *Competition and Consumer Act 2010*, consisting of two state/territory members and one Commonwealth member. The Commonwealth member is also a Commissioner of the Australian Competition and Consumer Commission (ACCC). The Competition and Consumer Act sets out the process for appointing AER board members and making decisions.

Our functions are set out in the national energy legislation and rules, which include the National Electricity Law, the National Gas Law and the National Energy Retail Law.³ The Australian Energy Market Agreement 2004 sets out the cooperative legislative framework of the states/territories and the Commonwealth. South Australia is the lead legislator, and the other jurisdictions then apply the national energy legislation.

The objectives in the national energy legislation guide our work. They are similar in each of the laws, referring to promoting efficient investment in, and efficient operation and use of, energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply.

AER BOARD

Our three member board has extensive energy sector and infrastructure regulation experience. It makes statutory decisions, sets strategic direction, approves major policy submissions and guides staff.

Chair—Andrew Reeves



Andrew Reeves was appointed as the Chair in July 2010, following his appointment as a board member in July 2008. His term as chair extends until July 2014.

Before his appointment, Andrew was commissioner of the Tasmanian Government Prices Oversight Commission and regulator of the Tasmanian electricity supply industry, responsible for the sector's technical and economic regulation. Other Tasmanian responsibilities included the regulation of the natural gas industry and investigations of the pricing policies of water authorities, the public transport operator and the provider of motor vehicle accident personal injury insurance. His previous government appointments included being director of energy policy and mineral and petroleum development (Tasmania).

His first professional discipline was engineering, with postgraduate qualifications in economics.

³ National Electricity Law, s15; National Gas Law, s27; National Energy Retail Law, s205.

Ed Willett—until May 2013



Ed Willett was the Commonwealth board member until May 2013, when his term as an ACCC commissioner ended. Before his appointment to the ACCC, he was the inaugural executive director of the National Competition Council for seven years.

Previously, Ed worked as an assistant commissioner with the Industry Commission, spent three years as deputy head of the Commonwealth Office of Regulation Review, and was involved in other Industry Commission inquiry work and research. He has degrees in law and economics, and a postgraduate diploma in international law.

Cristina Cifuentes



Cristina Cifuentes was appointed as a state/territory board member for five years in October 2010. In May 2013 she was appointed as an ACCC Commissioner and now fills the Commonwealth member position on the AER board.

Cristina has formal qualifications in law and economics, and was a member of the NSW Independent Pricing and Regulatory Tribunal between 1997 and 2006. She has held a number of directorships, including with the Hunter Water Corporation and First State Super Trustee Corporation.

Jim Cox

In August 2013, Jim Cox was appointed as an acting state/territory member for one year from 9 September 2013. Jim was previously the CEO and a full time member of the New South Wales Independent Pricing and Regulatory Tribunal.

Board meetings

Board meetings in 2012–13	53 meetings
All members present	44 meetings
Andrew Reeves not present	4 meetings
Cristina Cifuentes not present	4 meetings
Ed Willett not present*	1 meeting

* Ed Willett also did not attend four meetings that occurred after his term finished in May.

AER BRANCH STRUCTURE AND RELATIONSHIP WITH THE ACCC

The AER board is an independent entity, however the staff and facilities that support the board are shared with the ACCC.

In 2012–13 the average number of staff working in AER branches was 126, with additional staff in the ACCC Regulatory Development and Legal branches working either partly or fully on AER matters. Occasionally, other ACCC staff (particularly in regulatory branches such as Communications, Fuel, Transport and Prices Oversight, and Water) assist with matters before the AER board. Similarly, staff in AER branches sometimes help with matters before the ACCC.

The AER and ACCC take a coordinated approach to issues of common interest under the Competition and Consumer Act and the energy laws. The issue of door knocking by energy company marketers is a potential overlap in responsibility, for example. Door knocking was a major focus for the ACCC in 2012–13, with which the AER assisted.

The model of two independent decision makers, with shared resources and staff, supports a common approach to regulation across regulated infrastructure sectors. And it enables the AER and ACCC to share expertise and overhead costs.

AER CEO

Michelle Groves, our inaugural CEO, has over 15 years' experience in implementing national competition policy, energy market reform and utility regulation. Before joining the AER, Michelle worked at the National Competition Council, principally in energy reform and third party access to essential facilities. She also has experience in the state government sector, having worked for the West Australian Government from 1988 to 1993.

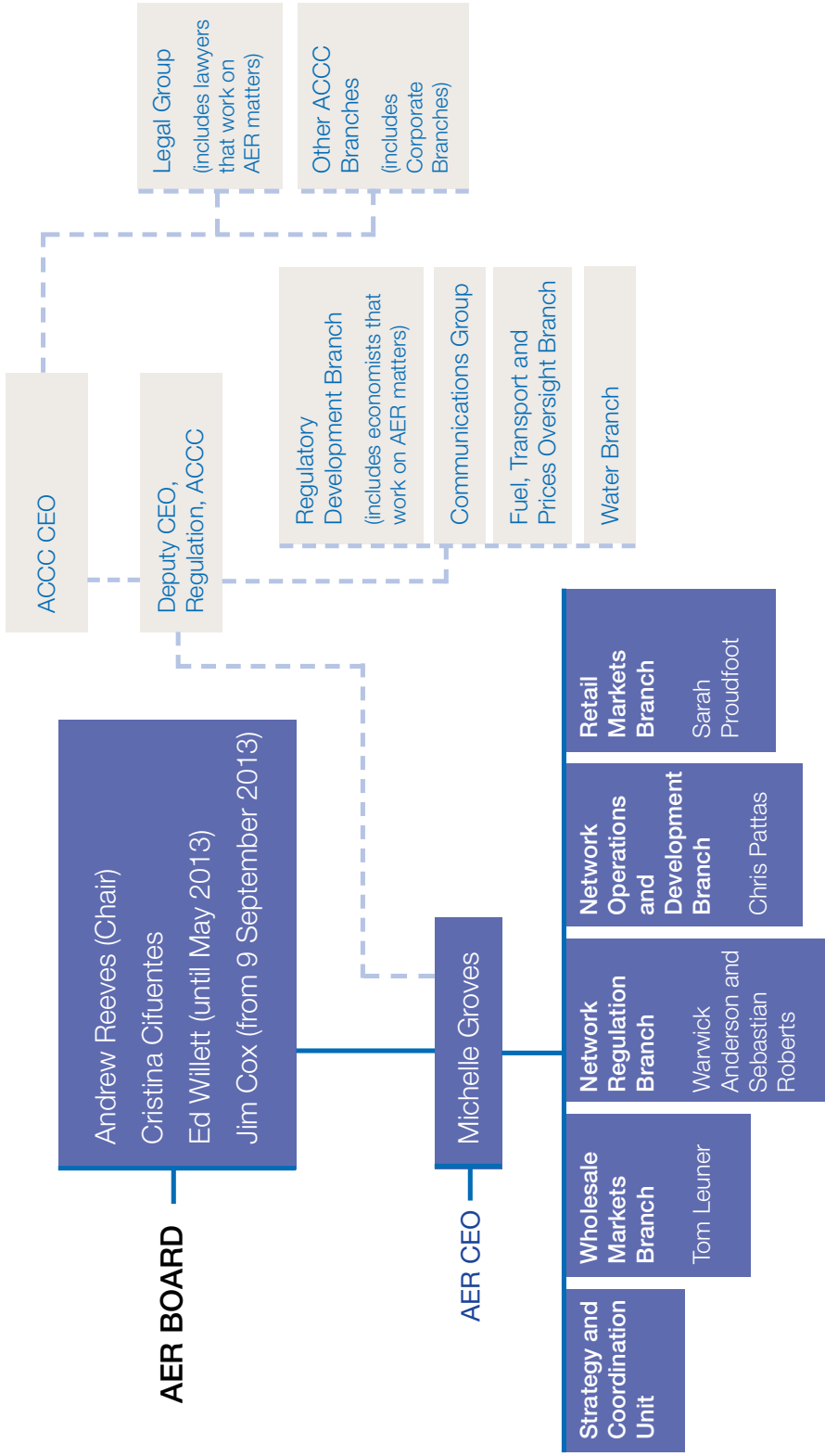
Retail Markets Branch

The Retail Markets branch, headed by General Manager Sarah Proudfoot, focuses on implementing our new functions under the National Energy Retail Law (section 2.4). Tasmania, the ACT and South Australia have introduced the Law; New South Wales will follow on 1 July 2013. The branch's key activities include:

- monitoring compliance with the Retail Law and taking enforcement action when necessary
- operating the Energy Made Easy energy price/use comparator website
- administering the retailer of last resort (ROLR) scheme, approving customer hardship policies, authorising retailers and granting exemptions.



Left to right: Michelle Groves; Chris Pattas; Tom Leuner; Sarah Proudfoot; Warwick Anderson; Sebastian Roberts



Wholesale Markets Branch

The Wholesale Markets Branch, headed by General Manager Tom Leuner, focuses on monitoring the National Electricity Market and wholesale spot gas markets, and ensuring compliance with obligations under the energy laws and rules (section 2.5). The branch's key activities include:

- publishing weekly and occasional special reports on wholesale gas and electricity market outcomes
- encouraging a compliance culture in the industry and taking enforcement action when necessary
- conducting technical audits of generators, transmission companies and pipelines.

Network Regulation Branch

The Network Regulation Branch undertakes the periodic network pricing decisions (section 2.1), headed by General Managers Warwick Anderson and Sebastian Roberts. Over the past year, the Better Regulation program (section 2.2) was also a keen focus of this branch and the Network Operations and Development Branch.

Network Operations and Development Branch

The Network Operations and Development Branch, headed by General Manager Chris Pattas, is responsible for the ongoing administration and oversight of network regulation determinations (section 2.3) and regulatory development work. The branch's key activities include:

- assessing tariffs—we annually review network distribution tariffs for both electricity and gas businesses
- deciding on cost pass throughs and contingency projects—network businesses can apply to us to pass through to network customers any costs that arise from events outside their control and that were not anticipated when we made their price determinations
- undertaking performance reporting—we collect and publish information from network businesses on their revenues, prices, expenditures, operations and service delivery
- ensuring compliance by network businesses in relation to connections, network loss factors, network exemptions and ring fencing requirements, for example.

Other branches and units

In addition to the four main AER branches, we have the help of:

- our strategy and coordination unit, which coordinates responses to policy/rule reviews, media and speeches (section 2.6)
- the ACCC's Regulatory Development Branch, which contributes significantly to our work. It includes expert regulatory economists who particularly help our decisions on the cost of capital, benchmarking and incentive schemes. The branch has a significant training role and is committed to increasing and coordinating the economic expertise across the regulatory areas of both the ACCC and the AER
- the ACCC Legal Group, which particularly helps with our enforcement matters and network pricing decisions (including assistance with any Australian Competition Tribunal reviews of those decisions)
- the ACCC's corporate branches, including Finance and Corporate Services, Information Management and Technology Services, Human Resources, and Strategic Communications (which includes the media unit).

OUR PLANNING AND REPORTING FRAMEWORK

Our strategic priorities

Each year, around July, we publish our strategic priorities for the upcoming year. Senior staff and the board develop these priorities, which highlight the issues on which we will focus, and our areas of change and innovation. Our strategic priorities for 2012–13 were:

- promoting more effective network regulation
- fostering customer confidence and engagement through our new retail functions
- fostering competition in wholesale energy markets.

The 'Chair's review' discusses our outcomes under each strategic priority.

Our strategic priorities in future years will include performance indicators and deliverables to help us and our stakeholders measure our performance.

Mimi Duong, Senior Analyst



Mimi joined the AER as a graduate in 2006 and is based in Adelaide. She specialises in wholesale market issues, contributing to technical performance reports and investigations of compliance matters. Mimi also contributed to a review of the service incentive scheme for transmission

networks. In 2010 Mimi was seconded for 12 months to the Energy Market Authority of Singapore, where she led a feasibility study for a renewable energy market, contributed to a strategic assessment of human capital requirements for the energy industry, and helped assess the potential for a smart grid in Singapore.

Mimi enjoys the AER's engaging work environment: 'It fosters high quality debates and discussions. The work is challenging and topical, making this an exciting area'. Outside the AER, Mimi practises Taekwondo and was a gold medallist at the 2007 ITF world championships in England and the 2008 World Taekwondo Festival in South Korea. She has a Bachelor of Applied Science (Mathematics and Computer Modelling) and a Master of Applied Finance.

STAFF PROFILE



Our annual reports

Our annual reports explain our work and performance over the past year. Previously, our performance was reported in a combined annual report for the ACCC and the AER. For 2012–13 the ACCC annual report will continue to contain content relating to the AER, including financial statements for the combined ACCC/AER and a formal report against our program deliverables in the portfolio budget statement (see below). The ACCC Annual Report meets our formal reporting requirements under the *Financial Management and Accountability Act 1997* and s 44AAJ of the *Competition and Consumer Act 2010*. This AER annual report includes performance indicators, as well as information on our staff and expenditure.

Portfolio budget statements and corporate plans

Each year, as part of the Commonwealth Budget, the *Portfolio Budget Statement: Treasury Portfolio budget papers* sets out program deliverables and performance indicators for the AER (see appendix 2). From the portfolio budget statement, we develop an AER/ACCC organisation-wide corporate plan. We then develop an internal business plan (finalised in late June) that reflects the corporate plan and the portfolio budget statement. It contains a risk matrix to help us minimise risks to our organisation and the energy industry. AER staff base their annual individual action and performance plans on the business plan.

Our reporting to the Standing Council on Energy and Resources

The Standing Council on Energy and Resources (SCER) has responsibility for major energy reform and the national energy legislation, as agreed by the Council of Australian Governments (COAG). The SCER consists of the Commonwealth, state, territory and New Zealand ministers with responsibility for energy and resource matters.

Every six months, when the SCER meets, we report to the ministers on our work activities, key market outcomes and, if requested, our views on SCER reform proposals. The AER Chair and CEO generally attend part of each SCER meeting to discuss energy market and network regulation issues.

Our relationship with the Commonwealth Treasury

We sit within the Commonwealth Treasury portfolio. Our formal financial reporting is undertaken as part of the ACCC's program accountability. The responsible minister is the Hon. David Bradbury MP, Assistant Treasurer.

Our stakeholder surveys

We conducted external stakeholder surveys in 2008 and 2011, and published the results on our website. These surveys of consumer representatives, the businesses that we regulate, other energy bodies, departments and ministers focused on our performance, consultation, reputation and communication. And their results provided useful input to how we work, our strategic priorities and our approach to stakeholder engagement. We are proposing to conduct another survey in 2013–14.

Our freedom of information obligations

Agencies subject to the *Freedom of Information Act 1982* are required to publish information for the public as part of the Information Publication Scheme. As such, we must display on our website a plan of information that we publish in accordance with the scheme. The ACCC's Freedom of Information website provides more detail.

Our approach to conflicts of interest

We are proud of our ethical standards and work hard to ensure public confidence in our decision making. We have strict procedures to identify and properly manage any personal interests that may lead to an actual or perceived conflict of interest. Staff declare any potential conflicts annually. Our general managers approve these declarations, and we keep a central record. Board members also declare statements of personal interests, and we have protocols to manage internal communications if conflicts or perceived conflicts arise.

OUR LINKS WITH OTHER ENERGY BODIES

Various organisations, including government and energy market agencies, have energy market responsibilities. Our work requires ongoing interaction with all these organisations. We work cooperatively with them to achieve results in the long term interests of energy consumers.

State energy ministers/departments

In addition to reporting to the SCER (see above), the AER Chair and CEO regularly meet with state, territory and Commonwealth energy ministers. AER staff communication with energy departments also occurs frequently, particularly on jurisdiction-specific issues (such as a network pricing determination in a jurisdiction) and broader policy issues.

Australian Energy Market Operator

The Australian Energy Market Operator (AEMO) operates the energy markets and has planning functions. The AEMO board and the AER board meet on occasion, and executive staff meet every second month. We also have frequent operational meetings with AEMO on gas and electricity wholesale market issues, retailer of last resort, network pricing decisions and planning decisions. We rely on AEMO for much of our market data, and use its information and forecasts in our network pricing determinations. We have a memorandum of understanding with AEMO covering communication and coordination.

Australian Energy Market Commission

The Australian Energy Market Commission (AEMC) assesses rule changes and undertakes major policy reviews. The Commission and the AER board meet regularly, and senior executives have frequent meetings. We also communicate regularly with the AEMC on policy reviews and rule change proposals, and make frequent submissions to the AEMC. Further, we often propose rule changes to the AEMC, which it considers in the same way it considers proposals from any party. We have a memorandum of understanding with the AEMC covering communication and coordination.

Ombudsmen schemes

We work closely with, and have memoranda of understanding with, all state and territory energy ombudsman schemes (in the ACT, the Civil and Administrative Tribunal—Energy and Water). We use statistics from energy ombudsman schemes to help establish our enforcement priorities. We refer some matters to the ombudsman and vice versa.

State/territory energy regulators

Alongside a progressive shift towards national energy market regulation (outside Western Australia and Northern Territory), state and territory energy regulators retain some functions. In New South Wales, Victoria and Queensland, which have not yet adopted the National Energy Retail Law, state regulators still monitor and enforce retailer obligations. In New South Wales, Queensland, Tasmania and the ACT, the local agencies regulate the retail price of electricity (and in New South Wales, gas). We maintain strong relationships with state regulators and have particularly focused on ensuring an efficient handover of functions when jurisdictions adopt the Retail Law.

With the ACCC, we organise the Utility Regulators Forum—a twice yearly meeting of decision makers and senior staff from all Australian and New Zealand infrastructure regulators.

Other government organisations

We work closely with a range of other government organisations and departments, including energy safety departments and agencies, energy efficiency departments and agencies, environment and climate change departments, and treasury departments.

Overseas energy agencies

We have close working relationships with overseas regulators and energy market monitoring organisations. These relationships are bolstered by our frequent staff exchanges (as noted in 'Our people'). In addition, we attend the World Forum on Energy Regulation and participate in its working groups. And we are a long standing member of, and key participant in, the Energy Intermarket Surveillance Group—the peak group that coordinates communication between wholesale energy market surveillance and enforcement bodies. The group meets twice yearly and coordinates the sharing of information and skills among members. We act as the group's secretariat and maintain a non-public website for the group.

OUR STAKEHOLDER ENGAGEMENT

While our engagement with energy policy bodies and other agencies is critical, we also need to understand the issues that concern the Australian community. Recent energy policy reforms and review recommendations identified ways for us to engage more productively with energy consumers and businesses. This improvement is vital, because a lack of consumer engagement in network pricing decisions has made it difficult for us to assess whether network business proposals reflect the services consumers want. More generally, an imbalance in the views reflected in regulatory decisions can reduce consumer confidence in the energy market, its regulation and its outcomes.

One reason for limited consumer engagement in network decisions is the complexity of the regulatory framework and network businesses' proposals. Consumer representative organisations highlighted for us that they need significant resources and specialist skills to contribute meaningfully to our regulatory reviews. This problem was recognised in recent reforms to the energy rules, and in reviews by the Merits Review Expert Panel, the Senate Select Committee and the Productivity Commission.

The reviews identified value in stronger consumer involvement in determining how energy businesses are regulated, and in undertaking regulatory processes. So, the reforms target more constructive approaches for us and energy businesses to engage with consumers. In response, we have initiatives underway to increase consumer participation in the energy sector and our processes. These initiatives aim to involve consumers, the AER and network businesses together in ensuring the energy services provided are the ones that consumers value.

Consumer Reference Group

In undertaking the Better Regulation program in 2012–13 (section 2.2), we used working groups and other forums to ensure our engagement strategies are inclusive and effective. Further, we established a Consumer Reference Group in December 2012 so consumer representatives can more meaningfully participate in the regulatory process. They can also more easily inform us of issues that affect them, without having to write formal submissions.

Group members can consult on key issues with their constituents and report back to us. This process is an efficient way for us to manage consumer consultation, given the complexity and volume of material on which we seek input. The group first met in early 2013 and will continue to meet monthly throughout the Better Regulation guidelines development until November 2013.

In one of the early meetings, group members commented that training would help consumers understand regulatory issues. We agreed, and we ran a number of training sessions, particularly on rate of return and regulatory incentives.

Engagement by network businesses with their customers

Also under the Better Regulation reforms, network businesses have new obligations to engage with consumers in developing their regulatory proposals. We will consider the nature and extent of this engagement when making our network pricing decisions. To help network businesses develop effective engagement strategies, we are developing a service provider consumer engagement guideline (to be published in late 2013). In 2012–13 we undertook significant consultation with the network businesses and consumer groups to develop this guideline (see box on page 30).

Customer Consultative Group

Our stakeholder engagement work in 2012–13 built on established consultation arrangements in the retail space. We established the Customer Consultative Group in 2009 to help us understand consumer perspectives on retail issues, for developing new guidelines in this area. The group filters issues raised by their constituencies, and it informs our development of consumer outreach strategies. More generally, we consult with the group on new matters, to ensure our decisions appropriately reflect consumer perspectives. The group met three times in 2012–13 and shares information out-of-session.

Consumer Challenge Panel

On 1 July 2013 we will introduce a Consumer Challenge Panel to help us incorporate consumers' interests in our decisions on the prices charged by energy network businesses. Comprising individuals with consumer, regulatory or energy experience and expertise, the panel will advise us on whether:

- regulatory proposals by network businesses are in the long term interests of consumers, including in relation to service delivery
- network businesses are engaging effectively with consumers and have reflected consumers' views in their proposals.

The panel will challenge us on how we approach issues, and will identify any gaps in our consideration and analysis of the businesses' proposals. Its members may be requested to provide consumer perspectives to other bodies too (such as the AEMC and the SCER).

We expect panel members will meet with other consumer representatives and stakeholder groups (including our Customer Consultative Group and any national energy consumer advocacy body established) to understand jurisdictional issues and to provide regulators with an effective consumer focus.

Other engagement initiatives

The Consumer Challenge Panel and Customer Consultative Group complement wider initiatives aimed at empowering consumers. In May 2013 the SCER agreed in principle to establish a national energy consumer advocacy body by 1 July 2014. The consumer advocate will contribute to energy policy and market development issues such as energy efficiency and feed-in tariff arrangements for rooftop solar panel systems. We participated in 2012–13 in processes to develop the advocacy body.

In the second half of 2013, we will publish a consumer engagement strategy to ensure a transparent approach in this area. Beyond these strategies, we need effective outreach programs, to educate consumers on how to engage constructively in energy markets.

Engagement with businesses

Consistent with wanting to enhance how we engage with key stakeholders, we have been promoting better engagement with the regulated businesses. In particular, we need to continue to improve our engagement with network businesses when considering their pricing proposals, especially given the number of network pricing decisions in coming years. Ultimately, increased engagement can inform our decision making process, to help achieve outcomes that are in the long term interests of consumers.

We want to avoid an approach based solely on an iterative 'documentation exchange'. Instead, we want to focus more on inquiry, questioning and understanding. We have relationship managers at the director level to handle communication with each business, and to facilitate communication between the business and our staff. Regulated businesses also have the opportunity to present key aspects of their proposals to the AER board. And we have invested in training our staff to engage better with our stakeholders.

Engagement with investment groups

Regulatory certainty is key to promoting efficient investment in energy services. Uncertainty about how regulation is applied increases the riskiness of investment. So, we need to explain to investment groups how the regulatory regime operates and why we make our decisions.

Part of the job of investment groups is to assess the network businesses' investments and the regulatory decisions that impact those investments. Representing investors both domestically and overseas, investment groups inform their clients about the regulatory regime in Australia and the role of the AER. For our network pricing decisions, we now brief investment groups and their clients at the draft and final decision stages.

In 2012–13, we targeted these stakeholders by publishing guides to our decisions and providing extended background material with our media releases, to help investors understand the impact of our decisions. For the Better Regulation program, we held meetings with investor groups and their clients—particularly on the rate of return guideline.

Going forward, we will continue to build our relationship with investment groups to minimise uncertainty about how regulation is applied in the energy sector, and to make our decisions more predictable. Such engagement also means we hear more from investors about their perceptions of risk for Australia, and about the reliability of market data used in our regulatory decisions.

Moston Neck, Director



Moston joined the AER from the Queensland Competition Authority (QCA) in 2008, following the transfer of economic regulation of energy networks: 'It was clear the future of energy regulation in Australia would sit with the AER and that is where I wanted to be'. At the QCA, Moston was

responsible for regulating energy networks and electricity retailers, and for retail electricity price determinations.

Previously, he also held positions in Queensland Treasury and the Department of Primary Industries, and at the Australian Bureau of Agricultural and Resource Economics. Moston has worked on several network determinations at the AER, and is currently examining how network businesses can give consumers more choice about the reliability and price of energy services they pay for. 'I feel I can make a difference by helping to ensure energy is supplied reliably, safely and at a reasonable price'.

Moston has a bachelor degree and graduate diploma in economics.

STAFF PROFILE



PART 2

REPORT ON PERFORMANCE





We faced new challenges in 2012–13. Overall, we were successful in responding to the challenges and delivering our work program. In particular, we responded to major reforms to the network regulation rules, which the Australian Energy Market Commission made in response to our rule change proposal. In the short term, these reforms required us to develop guidelines setting out our approach to regulation under the new rules. We also assumed responsibility for enforcing the National Energy Retail Law in three jurisdictions—the ACT, Tasmania and South Australia. Against this backdrop, we continued significant ongoing work in network regulation and wholesale markets.

2.1 NETWORK PRICING DECISIONS

2012–13 Overview

- We made seven new network pricing decisions and commenced five. We approved total revenue allowances of over \$5.1 billion in 2012–13.
- We made decisions for electricity transmission in South Australia and the Murraylink interconnector between South Australia and Victoria. Further, we commenced price review processes for transmission services in Victoria, and distribution in New South Wales and the ACT.
- We also made decisions for gas transmission and distribution in Victoria, and transmission in Queensland.
- We expect the network pricing decisions made in 2012–13 will not increase consumers' final energy bills, mainly because interest rates are lower compared with those during previous regulatory periods.
- We faced a range of challenges in making our network pricing decisions, such as network businesses not delivering on capital expenditure programs funded by consumers.
- We successfully responded to the challenges and made all our network pricing decisions within the statutory time limits.
- To allow better consumer participation and engagement, we developed consultation papers and consumer guides that explain our assessment and decisions in a way that is accessible to a wide ranging consumer audience.

OUR ROLE IN NETWORK PRICING

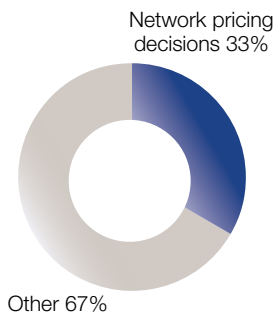
The electricity and gas rules require the network businesses to periodically (usually every five years) submit regulatory proposals (electricity) and proposed access arrangements (gas) to us for approval. We must assess the regulatory proposals of network businesses and justify our network pricing decisions with regard to the legislative criteria. We must also account for issues raised in consultation. Network businesses can appeal our decisions on, for example, merit grounds at the Australian Competition Tribunal.

To determine network prices and allowable revenue, we must account for the network businesses' need to provide efficient and appropriate levels of transmission or distribution services. A business's total revenue must be sufficient to ensure it can cover at least the efficient costs that it incurs in providing services. These costs include capital costs (such as for wires, poles, pipes and buildings) and operating costs (such as for labour and maintenance). In assessing these costs, we consider whether they reflect the costs that a prudent service provider acting efficiently would incur.

The network businesses must also earn an appropriate return on capital, which can account for more than half of their total revenue. Three factors determine the return on capital: the size of a network's asset base, new investment added to the base, and the rate of return necessary to cover a commercial return on equity and interest on loans (efficient debt costs). Small changes to the return on capital—also known as the weighted average cost of capital (WACC)—can materially affect network charges.

RESOURCES USED ON NETWORK PRICING DECISIONS

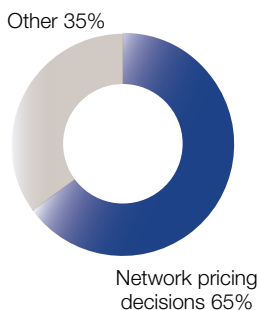
Staff time for network pricing decisions, 2012–13



In 2012–13 around 33 per cent of our staff time and 65 per cent of our consultancy and external legal expenditure was spent on our network pricing decisions. These decisions are inherently complex. To understand a network business's proposal and pricing model, and to apply the regulatory framework, we need considerable skills and time. And we must engage on a broad range of issues, from assessing large investment proposals that expand network capacity to understanding complicated pricing mechanisms and incentive effects.

So, to assess network pricing proposals, we rely on a wide range of skills internally, including economic, finance, engineering and legal skills. We also rely on external advisors, such as expert consultants and legal counsel. Independent external consultants are particularly important to question the more technical aspects of network pricing proposals.

Consultancy and legal expenditure for network pricing decisions, 2012–13



Despite network pricing decisions forming a high proportion of our staff time and consultancy/legal expenditure, we expect this proportion will grow. The number of network pricing decisions in 2012–13 was below average, due to the five year timing cycle and the regulatory reforms that shifted the cycle for some network pricing decisions.

OUTCOMES AND WORK COMPLETED IN 2012–13

In 2012–13 we completed seven network pricing decisions and commenced another five. We made decisions for electricity transmission in South Australia and the interconnector between South Australia and Victoria. And we commenced price review processes for electricity transmission services in Victoria, and distribution in New South Wales and the ACT. We also made decisions for the gas transmission and distribution networks in Victoria and transmission in Queensland.

Overall, we approved total revenue allowances of more than \$5.1 billion. Network charges will be mostly flat going forward for the network businesses covered by the above decisions. In particular, conditions in global financial markets means the cost of capital factored into revenue allowances in the current regulatory cycle is significantly lower than that applied in previous regulatory periods.

We faced a range of challenges in making the network pricing decisions in 2012–13. As an example, some network businesses had not delivered on capital expenditure programs funded by consumers. In response, we adopted a new approach so that customers will not be paying for services they do not receive. Also, one network pricing decision raised questions about the use of contingent projects and the related incentives of the regulatory

regime. Our strong commitment to engagement with consumers, the industry and other stakeholders enhanced our decision making. Few appeals of our decisions were made in 2012–13 compared with other years.

Reduced pressure on network charges

We expect our network pricing decisions in 2012–13 will not increase consumers' final energy bills. Some residential bills could even fall slightly, such as for gas prices in Victoria.⁴ A number of factors are reducing pressure on network charges. The main reason is the lower cost of capital. Additionally, for some decisions, we found that no new capital expenditure was required to augment the network.

The lower cost of capital for recent network pricing decisions is primarily a result of a lower 'risk free rate' and 'debt risk premium' (the latter reflects the borrowing costs for a business based on its risk of default). Issues in global financial markets affected liquidity in debt markets and increased perceptions of risk from late 2008, which pushed up the debt risk premium. These pressures have now eased.

Concerns about network businesses not delivering programs funded by consumers

As part of the Victoria gas prices review, we found capital expenditure by two distribution businesses in particular was significantly less than the amount funded by consumers in 2008–12. This outcome was principally due to the businesses not achieving the target levels of replacement of old parts of their networks that are more prone to leakages. One business replaced less than half of the kilometres of pipes previously approved by the regulator and funded through consumer prices.

In decisions for the 2013–17 regulatory period, we took an approach that means consumers will pay for only mains replacements that are justified and delivered. Our recent decisions provided for mains replacement programs to progress at the same rate as the previous regulatory period. However, we can accommodate additional mains replacement if a business reaches a certain volume of mains replacement and can demonstrate to us that more investment is required.

Contingent projects and demand uncertainty

In its initial proposal for the South Australia electricity transmission review, ElectraNet proposed a large portfolio of contingent projects worth \$2.5 billion. Generally, contingent projects are significant network augmentation projects that may arise during the five year period, but have uncertain timing or cost. They are linked to unique investment drivers, such as a step change in load growth.

We rejected the high number of contingent projects included in ElectraNet's proposal. In particular, we rejected projects associated with load growth that are within the 'expected demand' that the business used to develop its capital expenditure forecast. If these projects were included as contingent projects, then consumers might end up compensating ElectraNet twice for the same risks. We do not want to make allowances for projects that may not be required. On the other hand, we do not want to reduce the incentives on a business to manage expenditure within its overall allowance.

We considered ElectraNet was using the contingent project mechanism to shift controllable risk onto consumers. Further, we found ElectraNet's use of contingent projects in this way would remove the incentives for it to manage its network within its capital expenditure allowance. This possibility is potentially more of an issue in the current environment, given unusually high uncertainty about demand forecasts. In its review of the national framework for transmission reliability, the AEMC is considering our concerns about the use of contingent projects.

A new and improved way of engaging consumers

In the Victorian gas prices review, we released a customer consultation paper for the draft decision and a consumer guide to the final decision. Such initiatives are an important step in 'putting consumers first'. We wanted our assessment and decisions for the gas review to be accessible to

⁴ Network pricing decisions are only one influence on retail bills. Changes in wholesale or retail costs may result in bills increasing even when network charges fall.

a wide ranging consumer audience. This objective is far from straightforward because price reviews deal with inherently complex and technical issues. Most consumers are unfamiliar with economic terms and do not understand the ‘building block approach’, which we use to determine how much revenue a business requires to cover its ‘efficient costs’.

Consumer groups and other stakeholders welcomed the consultation paper and consumer guide. The media, for example, used the guide to report on the outcomes of the gas prices review. And the customer consultation paper helped inform a consumer group roundtable.

Accessibility and transparency are two of our core values. We are committed to improving how we communicate our price review processes and decisions to allow better consumer participation and engagement. But this is only the first step.

More effective industry engagement

We have been proactive in working with the regulated businesses to achieve better outcomes for all stakeholders. For the Queensland gas transmission prices review, for example, we worked with APA Group to facilitate industry discussion on APA Group’s proposed queuing requirements. We convened a face-to-face workshop and several teleconferences to discuss the queuing requirements for the Roma to Brisbane pipeline. All of APA Group’s major customers on that pipeline were represented at these forums. We also published a consultation paper to facilitate discussion.

This consultation process shaped our final decision. We concluded that elements of APA Group’s queuing proposal were not in the long term interests of consumers. We thus put forward alternative queuing requirements—informed by our workshop discussions—which stakeholders largely supported.

Network pricing decision appeals

The Australian Competition Tribunal heard only one appeal of our decisions in 2012–13. SP AusNet appealed our revised decision on Victorian advanced metering infrastructure expenditure for 2012–15 (see ‘Regulatory decision remittals’ in section 2.3). The tribunal is expected to make a decision in August 2013.

Two businesses appealed the Victoria gas decisions, which the tribunal will hear in August 2013. Multinet sought review of our decision on its opening capital base. APA GasNet sought review of our adjustment to tariffs to account for an interval of delay, its opening capital base, the calculation of depreciation based on indexed values for the capital base, and the rate of return (specifically, the cost of equity).

2.2 BETTER REGULATION

2012–13 overview

- In December 2012 we initiated the Better Regulation program—an integrated reform package of our approach to network regulation.
- The program encompasses several workstreams that together will deliver an improved regulatory framework to ensure consumers pay no more than necessary for a safe and reliable supply of energy.
- Workstreams include reforming our approach to receiving and assessing network businesses' expenditure proposals, and to determining electricity network revenues and prices. We will also implement rule changes from the AEMC's Power of Choice review.
- We engaged in extensive consumer and stakeholder consultation. We developed a Consumer Reference Group, and finalised a Consumer Challenge Panel.
- We published the Draft consumer engagement guideline for network service providers in June 2013. We also published issues papers for our other guidelines, and will publish all of our final guidelines by late 2013.

THE BETTER REGULATION PROGRAM

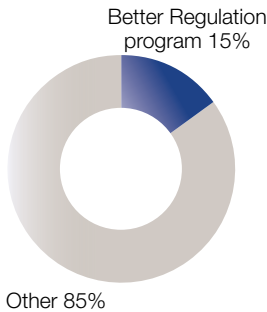
In 2011 we proposed changes to the economic regulation of network service providers under the National Electricity and Gas Rules, to ensure consumers pay no more than necessary for an economically efficient and reliable supply of energy. In November 2012 the AEMC implemented rule changes based on our proposal. The Prime Minister announced further energy market reforms in December 2012.

On 18 December 2012 we initiated the Better Regulation program to draw together these important reforms and our work in developing our regulatory processes and systems. Under Better Regulation, we are:

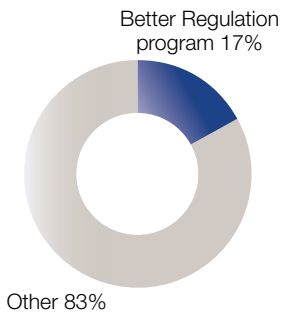
- extensively consulting on new guidelines that outline our approach to assessing expenditure proposals, determining the rate of return, implementing expenditure incentives, allocating the benefits of shared assets and assessing confidentiality claims, and how we expect energy businesses will engage with their customers
- forming an ongoing Consumer Challenge Panel (appointed 1 July 2013) to ensure our network regulatory determinations properly incorporate consumer interests
- improving our internal technical expertise and systems, and our engagement and communication with all our stakeholders
- implementing rule changes from the AEMC's Power of Choice review as these are progressed. The timing of the key milestones under this workstream will remain unclear until the AEMC initiates expected rule change processes.

We established a Consumer Reference Group in December 2012 to facilitate consumer input into the Better Regulation reforms. The group comprises a cross-section of 21 consumer representative bodies. It has been meeting monthly to discuss the broad spectrum of issues that we are considering. Subgroups have provided input into the development of our guidelines.

Staff time for Better Regulation, 2012–13



Consultancy and legal expenditure for Better Regulation, 2012–13



OUR RESOURCES USED ON BETTER REGULATION

In 2012–13 around 15 per cent of our staff time and 17 per cent of our consultancy and external legal costs were spent on Better Regulation. The program has been resource intensive because it spans multiple work areas and requires participation from a large variety of staff. Transitional provisions in the rules delayed our network pricing determinations so the new framework can be developed and our guidelines can apply to more network businesses. So, resources that we would normally use for network pricing determinations and other functions have been used on Better Regulation.

OUTCOMES AND WORK COMPLETED IN 2012–13

Expenditure assessments workstream

We are developing tools and techniques to better forecast how much needs to be spent, and to better examine the proposals put to us by network businesses. They include new benchmarking and trend techniques, as well as improved existing techniques. We will use these techniques to both test the expenditure proposals by each business at the time of the price/revenue determinations, and compare the relative performance of each business in our annual performance and benchmarking reports.

In December 2012 we released our issues paper on the expenditure forecast guideline. We received 15 submissions on this issues paper. We held 18 workshops and forums in February–June 2013. We will publish the draft guideline in August 2013.

Rate of return workstream

We are developing an improved approach to setting the rate of return for network businesses, based on new, more flexible, rules that apply across all regulated gas and electricity networks. We are consulting on criteria for assessment methodologies, and in particular on financial models, market data and other evidence that we may use to determine returns on equity and debt.

In December 2012 we released an issues paper on the rate of return guideline, then a consultation paper in May 2013. We held one stakeholder forum and two workshops. We received 17 submissions on the issues paper and had 34 stakeholders attend the forum. We will publish the draft guideline in August 2013.

Expenditure incentives workstream

Our expenditure incentives guideline will establish incentives for network businesses to spend only what is necessary for a safe and reliable supply of electricity. We will extend our existing scheme for sharing efficiency gains and losses in operating expenditure with customers to include capital expenditure. We are also considering revisions to the scheme, to complement our work in the expenditure assessments workstream. Additionally, we are developing our approach to reviewing the efficiency of past capital expenditure when a network business overspends its original forecast.

In March 2013 we released an issues paper on the expenditure incentives guideline, and we received 17 submissions. In April 2013 we held a joint stakeholder forum with the expenditure assessments workstream to discuss potential interactions. We will publish the draft guideline in August 2013.

Shared assets workstream

The new rules allow us to specify how businesses and consumers can share additional revenues that businesses earn from assets funded by consumers. An example of shared assets are power poles in the community. The value of power poles is included in the regulatory asset base of a network business, which earns a return on it, and pays for it through charges to electricity consumers. If the network business charges another utility for use of a power pole (for example, the National Broadband Network), then it will be required to share that revenue with its customers.

The rules establish a high level framework for determining the shared benefit, which customers will receive through reduced electricity costs. We are developing a guideline on our approach to implementing this framework. We released an issues paper on the shared assets guideline in March 2013 and received 12 submissions. We also held bilateral meetings with interested stakeholders. We will publish the draft guideline in July 2013.

Service provider consumer engagement workstream

Neither the National Electricity Rules nor the National Gas Rules prescribe consumer engagement by service providers. So, to provide clarity, we are developing a non-binding guideline setting out how we expect network businesses to engage with their customers. We aim to help network businesses engage systematically, consistently and strategically with consumers on significant issues, so the provision of services better aligns with the long term interests of consumers.

We spoke with businesses and hosted forums for consumer groups to understand the current consumer engagement activities of service providers. We also used the forums to seek input on the guideline's objective and what issues it should address. In April 2013 we met with network businesses to outline the objective of the guideline and seek comments on its main components. The case study on page 30 details our approach.

Confidentiality workstream

Our confidentiality guideline will specify how network businesses may make confidentiality claims in relation to regulatory proposals, revenue proposals and proposed pricing methodologies. It will cover the types of information that we consider confidential, and the disclosure process. We want to create a more streamlined process for managing confidentiality claims and ensure more information will be available to stakeholders, helping them engage in the regulatory determination process.

We are also considering whether to apply the confidentiality guideline, as policy, to all information that we receive. In March 2013 we released an issues paper on the confidentiality guideline and received 15 submissions. In April 2013 we held a stakeholder forum. We will publish the draft guideline in August 2013.

Improving consumer consultation by network businesses

The rules on regulating electricity network businesses changed recently. One change introduces an expectation that network businesses put more emphasis on communicating with their customers. In doing so, network businesses will become more transparent and accountable for their expenditure proposals. As the regulator, we must have regard to this consumer consultation when assessing businesses' expenditure proposals.

While not required by the rules, we decided to develop a guideline setting out how we expect network businesses to engage with customers across their business. We consider it critical that network businesses engage effectively with their consumers—the people paying for the network. Our aim is for high quality consumer engagement to become ingrained in network planning and pricing decisions.

Based on our consultation and research on consumer engagement in Australia and overseas, the guideline will have four components. First, priorities—a process for setting priorities for consumer engagement. Second, delivery—the activities that we expect businesses to undertake to engage effectively with consumers. Third, results—an articulation of how the business used information from consumers to influence or change its investment plans. Fourth, evaluation and review—a robust evaluation and review process to help continuous improvement. Supporting these components are best practice principles: inclusiveness and accessibility, transparency, communication, collaboration and integrity.

We have had strong support from businesses and consumer groups, beginning with a 'blank page' and developing best practice principles for consumer engagement. Building on this support, we are developing a guideline that sets the foundation for high quality communication between network businesses and their consumers.

Power of Choice workstream

This workstream stems from the AEMC's Power of Choice review, which concluded in November 2012. The review set out recommendations to facilitate demand-side participation in energy markets. This facilitation includes sending efficient price signals to consumers and enabling the market to support consumer choice.

We have been preparing for the rule change processes arising from the Power of Choice review. Following these rule changes, we will have a role in implementing reforms relating to distribution pricing, and the demand management and embedded generation connection incentive scheme (DMEGCIS). And we may also be required to amend our retail guidelines. Also under this workstream, we are developing a new regulatory investment test for distribution (RIT-D) (section 2.3) and guidelines that complement other Power of Choice initiatives to encourage demand-side participation.

We released an information paper in March 2013 and held a stakeholder forum in April 2013 for the DMEGCIS. The DMEGCIS is designed to incentivise network businesses to pursue cost-effective non-network solutions. Our information paper discussed our proposed approach to applying a DMEGCIS to the ACT and New South Wales distribution businesses in the next regulatory period.

Stakeholder consultation

We have been working to establish a Consumer Challenge Panel. Comprising individuals with regulatory or energy experience and expertise, the panel will advise us on whether:

- regulatory proposals by network businesses are in the long term interests of consumers, including in relation to service delivery
- network businesses are engaging effectively with consumers and have reflected consumers' views in their regulatory proposals.

It will also challenge us on how we approach issues, and identify gaps in our consideration and analysis of businesses' proposals. We called for expressions of interest in March 2013 and appointed panel members in July 2013 for a term of three years.

2.3 OVERSIGHT OF NETWORK REGULATION

2012–13 overview

- We reviewed 19 tariff applications from network businesses in New South Wales, the ACT, Queensland, South Australia and Tasmania for tariffs that apply in 2013–14.
- We reviewed 10 tariff applications from network businesses in Victoria for tariffs that apply in 2013, including five for Victorian advanced metering infrastructure.
- We assessed 14 cost pass through applications from electricity and gas network businesses.
- We reviewed the incentive scheme that is designed to encourage transmission businesses to maintain service standards.
- We published reports on network businesses' performance against their service standard incentive schemes and demand management incentive schemes.
- We issued the 2009–11 gas performance report for the Victorian gas distribution businesses. We will publish the 2010–11 performance report for the electricity transmission businesses in the National Electricity Market in August 2013.
- Two regulatory decisions were remitted back to us by the Australian Competition Tribunal—one for Victorian electricity distribution and the other for Victorian advanced metering infrastructure.



OUR ROLE ON OVERSIGHT OF NETWORK REGULATION

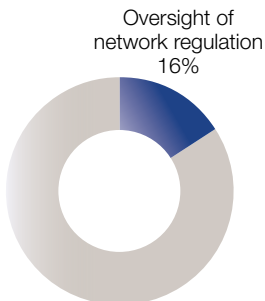
Our role in network regulation extends beyond making price determinations and approving access arrangements. We monitor compliance with our decisions and network businesses' obligations, approve annual tariffs, assess businesses' compliance with incentive schemes, develop and amend guidelines as required, and make other decisions that impact on network businesses' charges. Further, the Australian Competition Tribunal can remit regulatory decisions back to us if a network business successfully appeals our decision.

Of the main elements of our regulation of energy networks, we carry out some on a regular, predictable basis (such as tariff approvals), while others are more ad hoc (such as cost pass throughs). These roles include:

- **tariff assessment**—we review network tariffs for electricity distribution businesses, and for gas transmission and distribution businesses, on an annual basis
- **cost pass throughs**—under the regulatory framework, network businesses can apply to us to pass through to customers those costs that arise from events outside their control and that were not anticipated when their price determinations were made
- **access (connection) disputes**—we receive and resolve customers' disputes with the distribution businesses on the cost and, sometimes, the terms and conditions of connection offers
- **customer and stakeholder complaints**—we investigate complaints and advise the complainants' of our findings. If we find a breach of the distribution business's regulatory obligations, we follow our compliance enforcement policy to ensure future compliance.
- **regulatory investment test for electricity**—we monitor and enforce compliance of the network businesses applying the regulatory investment test for transmission (RIT-T)
- **performance reporting**—we publish information from network businesses about their revenues, prices, expenditures, operations and service delivery. Our performance reports also provide information on the financial performance, reliability and customer service outcomes of the networks, and how the businesses are performing against performance targets.
- **incentives for improved performance**—we develop incentive schemes for network businesses to improve their performance. We then administer those schemes and ensure compliance. The service target performance incentive scheme, for example, provides incentives for each network business to maintain or improve its service reliability in a way that consumers value.
- **other guideline development**—we develop and amend other guidelines as required. In 2012–13 we developed a new customer connection guideline (under the new connection provisions in the rules) and consulted on how to update our network exemption guideline. We also began other guideline development under Better Regulation (section 2.2).
- **regulatory decision remittals**—network businesses can seek a merits review of our decisions by the Australian Competition Tribunal. If the tribunal reviews a network pricing decision, we are a party to the review. We must act as a model litigant, using our best endeavours to help the tribunal make its decision. The tribunal can remit a regulatory decision (or aspects of a decision) to us for further consideration. Further, the courts can review our decisions on administrative grounds.

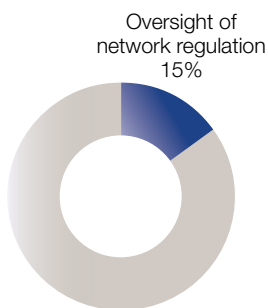
OUR RESOURCES USED ON OVERSIGHT OF NETWORK REGULATION

Staff time for oversight of network regulation, 2012–13



Other 84%

Consultancy and legal expenditure for oversight of network regulation, 2012–13



Other 85%

We use considerable skills and time to oversight network regulation and apply the regulatory framework to network businesses. To monitor compliance with access arrangements and other obligations, and to administer the economic regulatory framework of network businesses, we rely on a wide range of skills internally, including economic, finance, engineering and legal skills.

In 2012–13 we dedicated 16 per cent of our staff resources to the oversight of network regulation, and spent around 15 per cent of our consultancy and legal costs on this function.

OUTCOMES AND WORK COMPLETED IN 2012–13

Annual tariff assessment

We review network tariffs to ensure changes to tariffs do not breach revenue or pricing limits under the regulatory determinations or approved access arrangements. We also ensure tariffs relate to underlying costs, so they are consistent with applicable pricing principles.

In 2012–13 we reviewed 24 tariff applications from businesses in New South Wales, the ACT, Victoria, Queensland, South Australia and Tasmania for tariffs that apply in 2013–14 (or 2013 for Victorian businesses). These applications included proposals from 13 electricity distribution businesses and 11 gas transmission and distribution businesses.

For the Victorian electricity distribution network businesses, we also approved new flexible (time varying) tariffs, which come into effect progressively from 1 July 2013. This decision follows the Victorian Government's initiative to allow consumers who have a smart meter—or advanced metering infrastructure (AMI)—to move to these tariffs, if they choose to do so.

AMI charges assessment

In 2012–13 we approved revised AMI charges. These charges are for the metering infrastructure provided to small consumers by the Victorian electricity distribution network businesses. The 2013 charges for AMI services were originally forecast when we set the budgets for 2012–15 in October 2011. The businesses are required to revise the charges each year based on actual expenditure and any forecast expenditure updates. We also approved the setting of charges for AMI remote services. These services were previously provided through a field officer visit but now are offered remotely to consumers using AMI technology. They include remote special meter reads, remote meter reconfiguration, and remote re-energisation and de-energisation.

Cost pass throughs

Before approving any pass through amounts, we must have regard to the efficiency of the network business's decisions and actions to mitigate costs. In 2012–13 we assessed 14 cost pass through applications from electricity and gas network businesses.

Victorian Bushfire Royal Commission cost pass through

A network business may seek our approval to pass through to electricity consumers any higher costs from meeting new regulatory obligations. SP AusNet applied to recover costs arising from its implementation of certain Victorian Bushfire Royal Commission recommendations. These capital and operating expenditure costs totalled \$134 million over the 2011–15 regulatory period, equating to total revenue of \$24.4 million over the remainder of the regulatory control period. We approved a total pass through amount of \$20.2 million to be included in distribution charges.

National Energy Customer Framework cost pass through

ActewAGL applied to us to pass through the costs of implementing the National Energy Retail Law, which commenced in the ACT on 1 July 2012. It proposed a positive pass through amount of \$2 million—an increase of just over 1 per cent from the original determination. We accepted ActewAGL's proposal. From 1 July 2013 the business can recover the increase from customers through higher network charges.

Other electricity cost pass throughs

We considered four other electricity cost pass through applications in 2012–13, including:

- ACT and Queensland feed in tariff—ActewAGL, Energex, Ergon Energy
- SP AusNet easement tax change event

Gas cost pass throughs

We considered eight cost pass through applications for New South Wales and ACT gas businesses in 2012–13. For both ActewAGL and Jemena NSW, we assessed pass throughs for carbon costs, state and territory taxes and licence fees, and the cost of replacing gas lost from pipelines. For ActewAGL, we also considered a cost pass through application for the National Energy Retail Law.

Regulatory investment test for electricity

The purpose of the regulatory investment test for transmission (RIT-T) is to identify the investment option that maximises economic benefits and, when applicable, meets the relevant reliability standard. The application of the test should be transparent and promote competitive neutrality between network and non-network solutions. We have the role of resolving disputes over how the test is applied. Further, on request from a network business, we can make a determination on whether its assessment satisfies the test. We are establishing a similar test for distribution. In 2012–13 we undertook a variety of work relating to the regulatory investment tests that network businesses apply to investment proposals, including the following:

- **South Australia to Victoria (Heywood) interconnector upgrade RIT-T**—in its revenue proposal for the 2013–18 regulatory period, ElectraNet proposed a contingent project for the Heywood interconnector upgrade. In the decision, we approved the proposal subject to the inclusion of triggers. One trigger was us making a determination that its project assessment satisfies the RIT-T. ElectraNet submitted the request in January 2013. We must publish a determination within 120 business days.
- **development of the RIT-D**—we are required to develop a regulatory investment test for distribution (RIT-D) and application guideline by 31 August 2013. The RIT-D will apply to distribution businesses' investment projects over \$5 million, and will replace the current regulatory test that the distribution businesses apply. The RIT-D includes a dispute resolution process.

We released an issues paper in early 2013 as the first step in our consultation for developing the RIT-D and accompanying guideline. We also conducted stakeholder workshops to inform the draft decision, which we released in June 2013. We will publish the final RIT-D and application guideline before 31 August 2013.

- **compliance**—in 2012–13 we identified two projects for which we considered the network business did not conduct the regulatory test as required. The first was TransGrid’s proposed transmission upgrade of the lower mid-north coast of New South Wales. TransGrid provided insufficient detail on the need for the investment, and it failed to justify its preferred option. The second was Ergon Energy’s proposed power line between Warwick and Stanthorpe in Queensland. Ergon Energy limited the scope of alternatives to ‘committed’ projects, thereby potentially excluding non-network options. We sought undertakings from both businesses. They committed to reapply the test before augmenting their networks, and to undertake reviews of their systems.

Network businesses’ performance reporting

Performance reporting helps the public make an informed contribution to our decision making and ensures accountability for businesses’ performance outcomes. These reports will be augmented in future to incorporate benchmarking reports.

In March 2013 we issued the 2009–11 gas performance report for Victorian distribution network service providers. The report highlighted the following key trends:

- Gas reliability performance is generally high, and on average a consumer can expect an outage only every 40 years. However, for a small number of consumers connected to the Envestra and Multinet networks, repeated and lengthy interruptions have increased.
- Notwithstanding strong reliability levels, Multinet and Envestra undertook less capital expenditure than the amount funded by consumers over the period. This outcome occurred mainly because these businesses did not achieve their pipeline replacement targets for parts of the network that are more prone to leaks.
- The businesses continued to earn substantially more return on assets than forecast, despite energy sales being in line with expectations. As a result, the businesses earned around an additional \$120 million in aggregate over 2009–11. These additional returns were principally due to the below forecast capital expenditure by the businesses.

We published the 2010–11 performance report for electricity transmission networks in July 2013. This report summarised the performance of the five transmission businesses in the National Electricity Market (ElectraNet, Powerlink, SP AusNet, Transend and TransGrid), plus the Directlink and Murraylink interconnectors.

Improved data collection for network reporting and regulatory decision making

We are identifying improved data management systems for collecting, storing and analysing information that the network businesses report to us. We are also developing analytical techniques (and improving existing ones) such as the replacement expenditure (repex) model and the augmentation expenditure (augex) model. Further, we are developing benchmarking and other advanced analytical techniques as part of Better Regulation, which we will apply in the next regulatory determinations (commencing in 2014).

We continued in 2012–13 to refine annual reporting instruments for the collection of consistent information on the gas and electricity distribution businesses that we regulate. This information has a number of purposes, including performance reporting. As part of Better Regulation, we will issue further notices to businesses to collect consistent information for benchmarking.

Incentives for energy businesses to improve performance

We report annually on whether network businesses are improving their reliability (and receiving a reward in the form of higher revenues) or failing to achieve their service targets (and paying a penalty in the form of deductions to their allowed revenues). Further, the distribution businesses must report on their demand management innovation allowance expenditure under the Demand Management Incentive Scheme, and we publish annual reports on how businesses are using these allowances.

In 2012–13 we approved demand management innovation allowance expenditure of over \$1.5 million for electricity distribution businesses in Victoria, New South Wales, the ACT and Queensland. We also determined how we will apply a demand management incentive scheme to the New South Wales and ACT electricity distribution businesses in their 2014–19 price determinations.

Also in 2012–13 we amended the service target performance incentive scheme (STPIS) for electricity transmission businesses (see box on page 38). The amendments increase the focus on lead indicators of reliability, and change how we measure performance against the market impact component. We also introduced a new network capability component to incentivise transmission businesses to identify and implement low cost solutions to network limitations. Finally, we reviewed the performance of each transmission business against the STPIS for 2012. This review involved working closely with the businesses, checking their application of exclusion clauses and their provision of supporting material.

Regulatory decision remittals

The Australian Competition Tribunal remitted two regulatory decisions back to us.

Victorian electricity distribution, 2011–15

In 2010 we made decisions on electricity distribution prices for CitiPower, Powercor, SP AusNet and United Energy for the 2011–15 regulatory control period. These businesses each applied to the Australian Competition Tribunal to review parts of their determinations. In 2012–13 we remade the 2010 decisions in accordance with orders from the tribunal. The main change related to the rate of return (specifically, the ‘debt risk premium’ and the value of ‘gamma’). The rate of return can have a large impact on a business’s revenue, so it is a major focus of our assessment and of the businesses.

The tribunal’s decision means the businesses will recover \$255 million in additional revenue from consumers over 2013–15. We expect network charges in 2013 will go up by around \$19 (or 2.6 per cent) for the average residential consumer.

Victorian advanced metering infrastructure, 2012–15

The Victorian Government mandated the implementation of AMI for residential consumers in Victoria. All Victorian electricity distribution businesses commenced installing smart meters by the middle of 2010. We were required to approve the setting and recovery of prices, fees and charges relating to the rollout.

In our 2011 determination, we rejected \$107 million of the \$411 million spending that SP AusNet proposed to pass onto Victorian consumers, because we considered some expenditure on its choice of communications technology was not prudent. We considered SP AusNet should have fully re-evaluated its choice of technology to meet the AMI program requirements when it realised the costs were significantly higher than initially expected. SP AusNet’s rollout costs were significantly higher than those of the other network businesses.

New approaches to improving incentives for transmission businesses

By setting the revenue that monopoly transmission businesses can earn, we create an incentive for network businesses to spend less money on maintaining their existing infrastructure. To counteract this incentive, we operate an incentive scheme that encourages transmission businesses to maintain service standards. This scheme includes incentives to minimise the number of unplanned outages, reduce the duration of outages, and undertake planned outages for maintenance at the most efficient time for transmission businesses, generators and consumers.

We comprehensively reviewed the incentive scheme in the latter half of 2012. In doing so, we introduced a new measure to tackle another incentive on transmission businesses—that is, the incentive to focus on constructing new high cost infrastructure projects instead of undertaking lower cost, high impact incremental improvements to the network. The new measure, the network capability incentive, encourages businesses to undertake low cost projects that increase what their existing network can deliver, potentially delaying the need for expensive upgrades. Transmission businesses will submit an action plan to us, describing the current limits on key network equipment and proposing projects to improve the network's capability.

The value of projects is capped, and AEMO helps decide which projects take priority. The businesses are then provided with additional revenue to implement an agreed list of projects during their regulatory control period. Where a transmission business fails to undertake projects, or projects do not deliver as promised, we can penalise the business at the end of the review period. This network capability incentive will start to apply to transmission businesses in 2014.

SP AusNet sought review of our decision and claimed we made several material errors of fact in determining it should have reconsidered its choice of technology. The Australian Competition Tribunal found that we had erred in some aspects of our decision but not to the extent claimed by SP AusNet. It required us to amend our decision by considering the costs and delays that SP AusNet would incur if it changed to a different technology.

In 2012–13 we released a revised decision on SP AusNet’s expenditure for 2012–15. We again rejected significant increases to expenditure allowances, as sought by SP AusNet, because they would have meant consumers paid more as a result of cost overruns in SP AusNet’s choice of communications technology. Although we considered no increases were necessary to account for switching costs, we increased SP AusNet’s allowance for foreign exchange contracts and project management, as required by the tribunal. SP AusNet’s allowance thus rose by \$17.5 million. SP AusNet sought review of our revised decision. The tribunal hearings were in late May 2013, and a decision was pending at the time of this report’s publication.

2.4 RETAIL MARKETS

2012–13 overview

- We commenced enforcement of the National Energy Retail Law in the Australian Capital Territory and Tasmania on 1 July 2012, and in South Australia on 1 February 2013.
- We launched the Energy Made Easy website (www.energymadeeasy.gov.au). The website allows residential and small business customers to compare energy offers. It also provides a tool to help residential customers understand their electricity use.
- We developed educational material for energy consumers to better understand their rights, make an informed choice about their energy service, and resolve complaints.
- We strengthened relationships with industry and consumer stakeholders, via workshops and events addressing issues such as energy affordability, consumer advocacy and protection, compliance with the Retail Law, and energy marketing.
- We published three quarterly performance reports on the retail energy market, including information on contracts, customer hardship, disconnection and reconnection, and customer complaints.
- We published our first six monthly compliance report (and a companion document for consumer caseworkers), which outlined enforcement and compliance activity and the future focus of this activity.
- We addressed all Retail Law and Rules breaches reported by retailers and distributors, primarily through administrative resolution (including commitments from regulated entities to address issues within specified timeframes). In two incidents, we issued infringement notices. We addressed additional identified matters without using our statutory enforcement powers.

OUR ROLE IN RETAIL MARKETS

On 1 July 2012 we became responsible for regulating the retail electricity market in the ACT and Tasmania, and the retail gas market in the ACT, when the National Energy Retail Law commenced in those jurisdictions. In February 2013 this role extended into South Australia. It covers a range of functions, including:

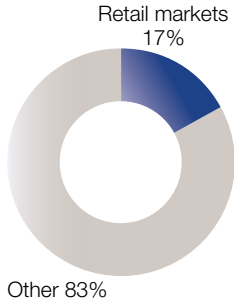
- **overseeing retail market entry and exit**—that is, assessing applications from businesses looking to become energy retailers, granting exemptions from the requirement to hold a retailer authorisation and administering a national retailer of last resort scheme to protect consumers and the market if a retailer fails
- **monitoring and enforcing compliance** (by retailers and distributors) with obligations in the Retail Law, Rules and Regulations
- **reporting on the performance** of the market and energy businesses (including information on energy affordability)
- **approving customer hardship policies** that energy retailers must implement for customers who are facing financial hardship and looking for help to manage their bills
- **maintaining an energy price comparator** website (www.energymadeeasy.gov.au).

We do not have a role in setting retail energy prices. But we guide and inform energy consumers so they understand the range of energy offers available, make better choices about those offers, and are aware of their rights and responsibilities when dealing with their energy provider. Our Energy Made Easy website is our key vehicle for providing this information. It includes a price comparator that shows all generally available offers available to consumers where the Retail Law has commenced, an electricity use benchmarking tool that allows households to compare their electricity use with that of similar sized households in their area, and information on the energy market, energy efficiency and consumer protections.

We also produce hard copy publications (including six new consumer factsheets in 2012–13) and web information on areas of the Retail Law. Our Customer Consultative Group is a source of information on important issues for energy consumers (see ‘Our stakeholder engagement’ in part 1).

OUR RESOURCES USED ON RETAIL MARKETS

Staff time for retail markets, 2012–13



In 2012–13 we spent around 17 per cent of our staff time on work relating to retail markets. The delayed start of the National Energy Retail Law in some jurisdictions meant our responsibilities did not extend as broadly as expected. But the delay gave us an opportunity to refine our processes and procedures to better accommodate larger jurisdictions as they adopt the new law.

OUTCOMES AND WORK COMPLETED IN 2012–13

This year has been the first 12 months of the operation of the National Energy Retail Law. To date, our role in retail markets has been limited to those jurisdictions in which the law has commenced — Tasmania, the ACT and, more recently, South Australia. The Retail Law is due to commence in New South Wales on 1 July 2013.

Authorisations

The Retail Law requires any party selling energy ‘to a person for premises’ to hold a national retailer authorisation, or be exempt from that requirement. We are responsible for granting those authorisations and for the Retail Law’s exempt selling regime. A national retailer authorisation allows a party to sell electricity or gas to any consumers in jurisdictions in which the Retail Law has commenced.

Parties seeking an authorisation to sell electricity and/or gas must demonstrate their capacity and suitability to operate as an energy retailer. When we receive an application, we must publish it on our website and seek submissions from interested parties. We then consider these submissions in deciding whether to grant a retailer authorisation. We granted six retailer authorisations in 2012–13, to:

- ERM Power Retail Pty Ltd for gas
- Infigen Energy Holdings for electricity
- Metered Energy Holdings for electricity
- Metered Energy Holdings for gas
- EDL Retail Pty Ltd for electricity
- WINenergy Pty Ltd for electricity.

Exemptions

The Retail Law's exempt selling framework includes classes of deemed and registrable exemptions, along with individual exemptions. It is another mechanism through which a party may legally sell energy to another. It generally applies when the energy seller is doing so not as its main business activity (as an authorised energy retailer would), but rather as an additional service or aspect of its primary business (for example, a caravan park operator charging for the cost of energy at individual sites).

Our exempt selling guideline outlines the classes of deemed and registrable exemptions that apply, as well as the process for obtaining an individual exemption. We also have publications for exempt sellers and their customers, which explain in simple terms how the framework applies and each party's rights and obligations.

We can grant an individual exemption for specific activities that fall outside the deemed or registrable classes of exemption. It is subject to a consultation process similar to that for applications for authorisation. In 2012–13 we granted one individual exemption, and 348 exemptions have been registered for the ACT and South Australia (Tasmania has not adopted the exempt selling regime).

We also revised the exempt selling guideline, after consulting on proposed changes to some exemption classes. We published the new version of the guideline in June 2013.

Retailer of last resort

We are responsible for ensuring consumers continue to receive supply if their retailer fails. Our retailer of last resort (RoLR) functions include: registering default and additional RoLRs (parties to which consumers could be transferred); maintaining and publishing a register of RoLRs; appointing designated RoLRs in relation to RoLR events; publishing a RoLR guideline and a RoLR plan; conducting RoLR exercises simulating RoLR events; and making RoLR cost recovery scheme determinations.

We regularly seek expressions of interest from retailers looking to act as RoLRs, and we also maintain internal processes to manage a RoLR event. This includes working closely with the Australian Energy Market Operator (AEMO), industry and other stakeholders to ensure all parties understand their potential role in the event of a retailer failure.

In 2012–13 we sought expressions of interest four times for parties to be RoLRs, and we appointed default RoLRs in all jurisdictions where the Retail Law has commenced.

Monitoring and enforcing compliance

We employ a range of tools in monitoring and enforcing compliance with the Retail Law. Among these tools are: an exception reporting framework under which businesses must notify us within a given timeframe if they breach provisions of the Retail Law; a proactive monitoring program; intelligence that we obtain from our regular liaison with energy ombudsmen and consumer representatives; and complaints that we receive directly.

Information on businesses' performance and compliance is available in our published reports *Retail energy market update—compliance* and *Retail energy market update—consumer issues* (both covering July–December 2012). The latter is designed specifically for consumer caseworkers and others interested in the identified compliance issues and our monitoring focus. Starting in 2013, we will also publish an annual statement on performance and compliance in November each year.

Our proactive compliance monitoring in 2012–13 included reviewing businesses' websites to ensure all required information was accurate and available. This review work reflected the Retail Law's focus on ensuring consumers have access to necessary information about their energy supply. When the websites lacked information, or the information required amendment, we worked with businesses to address these concerns.

Intelligence that we gathered in 2012–13 from jurisdictional ombudsmen schemes and our Customer Consultative Group indicated ongoing consumer complaints about billing practices and assistance for customers with payment difficulties. On that basis, we commenced a review of billing practices, questioning all retailers on their compliance with billing provisions and their processes for compliance, and reviewing retailers' bills. The findings of that review will inform our compliance approach in future years.

While the majority of compliance issues identified in 2012–13 were addressed through administrative resolution (that is, by working with the businesses to remedy concerns), we also took enforcement action. We issued infringement notices in response to reported breaches of obligations to life support customers. In those cases, supply was cut off without notice to customers known to require life support equipment due to errors on the part of their distributor. Aurora and ActewAGL reported these incidents to us. We issued two infringement notices of \$20 000 each to Aurora. Both Aurora and ActewAGL are strengthening their internal processes to meet their obligations to life support customers.

Performance reporting

Each quarter we publish key market and retail performance indicators on issues including customer switching levels, customers experiencing payment difficulties, customer hardship, disconnections and reconnections, and complaints. As our data collection grows, we will look to provide more information on trends in the market across retailers and across jurisdictions. This information also guides our compliance and enforcement activities.

Price comparator website

On 1 July 2012 we launched our energy price comparison website, Energy Made Easy (www.energymadeeasy.gov.au). While we do not have a role in setting retail energy prices, Energy Made Easy is designed to help consumers make more informed energy choices. Currently, residential and small business customers in the ACT, Tasmania and South Australia can visit Energy Made Easy, enter their postcode and immediately compare gas and electricity offers available to them.

We require retailers to enter all generally available offers onto Energy Made Easy within two business days of an offer becoming available to consumers. This timeframe ensures the site gives consumers up-to-date information on the products available. The website presents information in a standardised form, making it easier to compare the features and detail of each offer.

In addition to its price comparator function, Energy Made Easy includes national residential electricity use benchmarks that households can use to assess how their energy use compares to that of other households of a similar size in their area. It also contains energy efficiency tips and information about consumer rights, energy contracts and the market more generally.

In 2012–13 the website had more than 98 000 visits and more than 271 000 unique page views. More than 1000 offers were published in total over the period—around 330 in the ACT, 50 in Tasmania and 650 in South Australia.



Consumer guidance and information

Increasing energy costs and the complexity of energy offers mean consumers need access to simple, accurate information so they can participate in the energy market in a more confident and informed way. In addition to our information on Energy Made Easy, we have been working with consumer groups and other stakeholders to identify the interests and concerns of energy consumers, and to address those directly. In 2012–13 we published seven new factsheets on topics such as how to compare offers, how to complain about energy bills and supply, and how to be more energy efficient.

In August 2012 our Customer Consultative Group and the ACCC's Consumer Consultative Committee met jointly to discuss energy issues affecting consumers. Representatives from energy ombudsmen schemes also attended. Key topics were energy marketing and the new price comparator website, Energy Made Easy. The AER and ACCC chairs discussed how the agencies will work together on issues affecting energy consumers and on improving door-to-door energy marketing practices.

We have also been attending conferences and events such as the Financial and Consumer Rights Council's State Conference (Victoria), the National Consumer Congress (Sydney), the UnitingCare energy affordability roundtable (Canberra), the SACOSS conference (Adelaide) and the forum on energy affordability issues that the Energy and Water Ombudsman NSW, the Energy Retailers Association of Australia and the Australian Council of Social Services jointly hosted in Sydney. At these events, we obtained direct feedback and intelligence from consumer 'field workers,' promoted Energy Made Easy and other information products, and sought feedback and assistance on our planned initiatives to better help energy consumers.

A new program of work that will continue into 2013–14 focuses on increasing energy literacy among consumers and their advocates. It will be directed at upskilling consumer case workers (such as financial counsellors) on the detail of energy contracts, particularly on the features that make them better suited to particular consumers. We are also developing 'train the trainer material' for consumer intermediaries and support consumer-facing hard copy and web information. In support of this work, we will run a campaign to raise awareness of Energy Made Easy and update the consumer information available on it, to make the website more user friendly and accessible to consumers.

2.5 WHOLESALE MARKETS

2012–13 overview

- We completed two technical audits in electricity and three information audits in gas.
- We conducted 14 targeted provision reviews covering three obligations.
- We completed 70 general compliance reviews and 111 rebidding matters.
- We launched four new strategic compliance projects, completing one and continued three others.
- We issued nine conditional no action letters for breaches of the rules, accepting undertakings from the businesses in each case.
- We issued two compliance bulletins, on (1) confidentiality requirements in electricity and (2) changes in linepack in the gas markets.
- We published a guideline on what constitutes a significant price variation in the short term trading market (STTM) for gas.
- We published 104 weekly performance reports on the energy markets and six high price event reports.
- We published a special report on the impact of congestion on bidding and interregional trade in the National Electricity Market (NEM).
- We published quarterly compliance reports that summarise our compliance monitoring and enforcement activities in the wholesale electricity and gas markets.

OUR ROLE IN WHOLESALE MARKETS

We are responsible for monitoring and enforcement for wholesale electricity and gas markets in all jurisdictions except Western Australia and the Northern Territory. The markets of interest are:

- the National Electricity Market (NEM)—an \$11 billion per year spot market in eastern and southern Australia, in which more than 200 generators compete to dispatch electricity
- spot markets for gas, in which around 360 petajoules is traded each year in market hubs in Adelaide, Sydney, Brisbane and Victoria.

We aim to promote more efficient, competitive, transparent and secure wholesale energy markets. To ensure market participants comply with the relevant legislation and rules, we:

- take effective, targeted and timely enforcement action when necessary
- promote best practice through our compliance publications and audits
- report on day-to-day market activities and pricing outcomes
- detect and report on market irregularities and manipulation
- provide policy advice to address market inefficiencies and improve competition (for example, via submissions and rule change proposals)

We also undertake a small number of strategic compliance projects each year. These projects involve identifying a compliance problem, inefficiency, harm or risk within the energy wholesale markets and working to solve it or reduce its severity. We design tailored metrics for the projects, to assess how successfully we, and industry, rectify the identified problem.

In terms of monitoring the markets, we publish reports covering:

- weekly wholesale electricity activity in the NEM, which focus on spot prices, reasons for variations between forecast and actual prices, and electricity futures prices and volumes

Northern Power Station technical audit

Auditing is one mechanism we use to assess compliance with the national energy legislation. In 2007 we established a rolling program of technical compliance audits that examine electricity generators and network businesses. In particular, these audits focus on the requirements to institute and maintain a compliance and testing regime for the technical performance of plant and equipment—for example, the ability of the generator to manage frequency disturbances, or the ability of a network to protect equipment when disturbances arise. This technical performance is vitally important for power system and equipment security reasons.

Our audit regime not only helps identify potential breaches, but also emphasises to generators and networks that they need to be vigilant in ensuring compliance with technical performance standards. By comparing different approaches and publishing the results, we endeavour to set a high bar for the businesses to reduce risks to the security of the electricity system.

In conditions of falling demand and increasing operating costs resulting from the carbon price, some coal generators have chosen to shut down for extended periods while remaining registered. So, they can commence generating again. But we are concerned how these participants will be able to maintain a technical performance testing regime while not operating. A number of the technical obligations apply regardless of whether the equipment is being operated. If a generator remains offline, and its technical compliance and testing programs lay dormant, then the risk to the power system may be heightened when it returns to service.

Alinta Energy's Northern Power Station at Port Augusta in South Australia was a key example of this change in generation pattern. Alinta decided to adjust the operating mode of the 540 megawatt power station, keeping the generating units offline for extended periods and limiting operation to only the peak periods of the year. We thus chose to audit Northern Power Station in 2012–13.

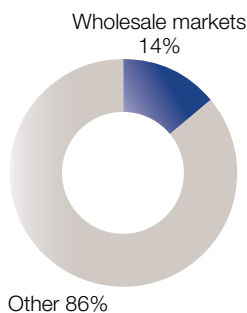
AER engineers met with Alinta's compliance team and also visited the station in Port Augusta to meet plant staff, view equipment and discuss compliance systems. The audit considered Alinta's governance practices and expertise surrounding its compliance systems. It also focused on how Alinta implemented systems to meet its obligations, then measured performance against those obligations. We published an overview of the audit and provided a detailed report to Alinta in September 2012.

- weekly activity in the Victorian gas market and gas short term trading market (STTM) hubs in Adelaide, Sydney and Brisbane. These reports cover many aspects of the markets, including prices, demand, market operator service costs and an overview of any significant market events.
- electricity prices events above \$5000 per megawatt hour, as well as significant price variations in gas markets
- special or systemic issues in the market.

Our *Quarterly compliance report—national electricity and gas laws* provides an overview of our compliance and enforcement activity in the previous quarter.

OUR RESOURCES USED ON WHOLESALE MARKETS

Staff time for wholesale markets, 2012–13



In 2012–13 we spent approximately 14 per cent of our staff time on wholesale market issues. This time was split fairly equally between monitoring and enforcement. Wholesale markets issues comprised only a small percentage of our consultancy and external legal costs in 2012–13, because no litigation was in train and limited projects called for consultancy spending.

OUTCOMES AND WORK COMPLETED IN 2012–13

Significant price reports

We released reports on significant price variations in the Victorian wholesale gas market and the Sydney, Brisbane and Adelaide gas short term trading market (STTM) hubs for each of June, July and August 2012. The three reports analysed the drivers of the high gas prices in these months. June 2012 saw higher gas prices in all markets across the month leading to a sharp increase in the 30 day average price. Ex ante prices for each STTM gas hub were the highest, or close to the highest, since market start. These consistently high prices continued to occur in all markets throughout July, before declining in August.

For all three months, a lower volume of cheap offers was the most significant driver of high prices. In Victoria, this outcome was partly the result of a Bass Gas outage over this period. Generally, increased demand did not drive increased prices. On a number of days, demand was poorly forecast, including under forecasting on 25 days in August 2012 in the Sydney market hub. This issue caused a difference between beginning and end of day prices of around \$1.50 per gigajoule. As a result, we developed a metric to measure demand forecasting performance.

Electricity high price reports

We are required to publish a report whenever the price for electricity exceeds \$5000 per megawatt hour, or the ancillary service price exceeds that amount for an extended period. The reports must identify and describe the significant factors that contributed to the high price, including generator rebidding, network issues and/or changes to demand and generator availability.

We published three of these reports in 2012–13. The first covered the events on 29 November 2012, when the spot price in Victoria exceeded \$5000 per megawatt hour for three trading intervals, with prices of up to \$9974 per megawatt hour. Higher than expected temperatures led actual demand to be significantly higher than forecast, while generation reserves were low in Victoria. With this tight supply/demand balance, any changes in imports, rebidding or demand had the potential to result in high prices. Generator rebidding contributed to a reduced import capacity from New South Wales, which was the main contributor to the high Victorian prices.

The second report related to 29 January 2013, when the spot price in Queensland reached \$6299 per megawatt hour. Higher than expected temperatures in Brisbane led actual demand to be significantly higher than forecast. Generation capacity was also lower than forecast, due partly to an unplanned loss of two units and the late return to service of another unit. The result was a lack of reserves and the observed high price.

On 6 March 2013 we published a report on ancillary services prices in South Australia that exceeded \$5000 per megawatt for 10 consecutive five minute dispatch intervals. The high prices were the result of a transmission line outage, reductions in generation capacity, and rebidding of some ancillary services to prices above \$8900 per megawatt. The cost for the relevant ancillary service, which South Australian consumers pay for, totalled around \$1 million. This cost compares to less than \$100 per day for the same service on a typical day.

Report on NEM congestion

On 10 December 2012 we released a report on NEM congestion and associated disorderly bidding by generators. ‘Disorderly bidding’ refers to bidding by generators designed to influence how AEMO dispatches generators whose output is reduced (or constrained) by network limitations. In the face of such limitations, generators may bid to $-\$1000$ per megawatt hour (the price floor) to ensure they are dispatched and capture high prices. Or, they may adjust the rate of change of output (ramp rate) to very low levels to ensure they continue to generate at high levels.

The report focused on how certain generators respond to transmission network congestion in central Queensland, New South Wales and Victoria. It highlighted how disorderly bidding associated with congestion affects the efficiency of the market by limiting interregional trade, distorting economic dispatch and creating price volatility. In the report we called for market reforms to reduce the ability of disorderly bidding to raise consumer costs and adversely affect the efficient operation of the NEM.

Guideline on gas STTM significant price variations

In December 2012 we published a guideline on what constitutes a significant price variation in the gas STTM. We will use these thresholds to guide when a significant price variation report should be published. Under the guideline, we will monitor variations between the two-day-ahead, ex ante and ex post prices, the rolling 30 day average price, and the Market Operator Service (balancing gas) payments.

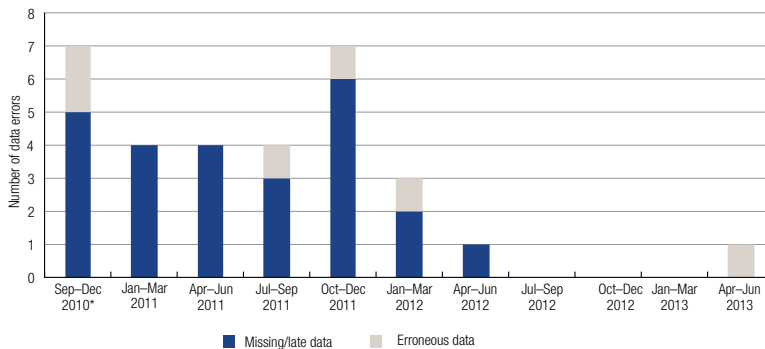
Data errors in the gas short term trading market

Following the start of the gas STTM in September 2010, we detected a variety of pipeline data related errors. These errors created random market price outcomes and inappropriate wealth transfers, damaging the reliability and efficiency of the new markets. Unreliable price signals can discourage potential new entrants or even cause participants to exit the market.

In February 2011 we met with pipeline operator CEOs to reinforce the importance of timely and accurate data to the integrity of the STTM. At that meeting, we set out our compliance response, which involved an audit program of all businesses and increased scrutiny and reporting of all errors. We developed a new 'pipeline data error' metric that we would track to review the increase or decrease in errors over time (see diagram below).

Nevertheless, the number of data errors did not improve by the end of the year. So, in December 2011 we released a compliance bulletin outlining that we would consider stronger enforcement measures for future data failures, including the issuing of infringement notices. The rolling audits were also in full swing by that time. We issued an infringement notice to Epic Energy. We also followed up every error with each business and sought commitments to implement new data systems and improve internal processes. These efforts to improve the quality of pipeline data, along with companies' positive response to those efforts, led to a marked reduction in the number of STTM data errors in 2012–13.

Number of STTM pipeline data errors



* September quarter 2010 is grouped with December quarter 2010.

Compliance bulletins

We use compliance bulletins to set out our expectations of compliance on certain issues. We published two compliance bulletins during the year. The first highlighted issues with the disclosure of confidential information by participants in the NEM. It was in response to retailers providing access to metering data to agents that market to consumers on retailers' behalf. It was also in response to electricity distributors providing consumers with direct access to meter data. The regulatory framework does not necessarily reflect these developments, and some participants risk engaging in conduct that breaches the National Electricity Rules.

The compliance bulletin proposed we would not take enforcement action in this area until 31 December 2013, allowing time for industry and policy makers (for example, through the AEMC's Power of Choice review) to clarify the requirements under the legislation, and for market participants to change their practices if necessary.

The second compliance bulletin informed STTM participants about our view on price taker bidding when a change in linepack within a distribution network is notified to STTM users. It followed an event in March 2011 when over \$1 million of market operator service payments resulted from STTM users not accounting for a reduction in linepack when submitting price taker bids. The bulletin outlined our expectation that STTM users, when notified of changes in linepack in the distribution network, should account for those changes when submitting price taker bids.

Targeted provision reviews

Targeted reviews are an important part of our compliance work. The reviews explore participants' compliance practices and aim to improve participants' understanding of their obligations. In 2012–13 we conducted 14 reviews covering two National Electricity Rules provisions and one National Gas Rules provision:

- During the September 2012 quarter, we targeted gas rules that stipulate that Victorian gas market bids must be made in good faith and represent the participant's best estimate of the quantities of gas it intends to inject or withdraw. We wrote to five market participants to ascertain whether they had systems to ensure their injection and withdrawal bids are compliant. All participants had adequate procedures, including open lines of communication between the participants' commercial and operations teams, and external communication agreements with service providers.
- During the March 2013 quarter, we targeted the requirement on NEM participants to ensure their compliance programs reflect Reliability Panel amendments to the compliance program template. The Reliability Panel published an amended template on 27 June 2012, requiring registered participants to review their compliance programs by December 2012. We wrote to eight generation businesses. All respondents advised they have internal processes for reviewing their compliance programs, and reviews were underway.
- During the June 2013 quarter, we targeted an obligation on AEMO regarding its treatment of confidential information that it acquires as market operator. While we had previously reviewed this clause in September 2008, AEMO reported confidentiality breaches for the gas market in 2011 and 2012. In its response, AEMO outlined updates to its information handling policies and practices since 2008. It also stated it had conducted a review in response to the gas market breaches and will apply the lessons learnt to the electricity market.

Audits

Our program of technical audits of electricity generators and transmission network service providers continued in 2012–13. These audits ensure participants institute and maintain a robust and effective compliance program, consistent with good industry practice. We completed reviews of Alinta Energy's Northern power station (see box on page 46) and Macquarie Generation's Bayswater power station.

We also audited three STTM facility operators—APA group, AGL Energy and Epic Energy. These audits assessed the STTM facility operator's processes to achieve compliance with information requirements, and whether these processes are good industry practice. We commenced this audit

program shortly after the STTM was established, because a large number of data errors were occurring. While the facility operators had extensive experience in providing natural gas services in a general sense, none had experience in providing data critical to the operation of a market.

Strategic compliance projects

In 2012–13 we completed one strategic compliance project, continued work on three other projects and commenced four new projects. We completed a project aimed at reducing the amount of missing, late or incorrect data submitted by STTM pipeline operators (see box on page 49).

The following strategic compliance projects continued in 2012–13 and will still continue in 2013–14:

- **Transmission network connections**—in response to concerns raised by connection applicants about the transmission company connection process, this project is surveying parties that sought to connect to the NEM transmission network.
- **Generators not following dispatch instructions**—this project acknowledges the possible risk to electricity system security when generators do not follow dispatch instructions. We examined generation data and contacted participants whose actual generation for a unit differed from its generation target measured against predetermined thresholds.
- **Demand forecasting in the gas STTM**—this project commenced in response to ongoing occurrences of poor demand forecasting by a number of gas STTM participants. We compared forecast demand to actual demand, and contacted market participants that had poor demand forecasting performance.

Detailed updates on the projects are available in our quarterly compliance reports.

We commenced the following four strategic compliance projects in 2012–13:

- **Ancillary services for regulation**—this project is assessing whether providers of regulation frequency control ancillary services actually deliver the services they are paid to provide. Ancillary services are used to maintain the power system frequency within the frequency standards set by the Reliability Panel.
- **Metering data quality and upgrades to metering installations**—we are examining data from AEMO to ascertain whether consumers have the appropriate metering installation, and to address any widespread noncompliance. We will also work with AEMO to refine a broader set of metering data quality metrics that will contribute to further metering compliance/enforcement work.
- **Trends in power system operating incidents**—AEMO’s power system incident reports assess the response of network businesses and market participant facilities following a power system event (such as an unexpected generator trip that results in a sudden loss of generation). This project is analysing trends over the longer term, so we can better identify compliance areas that warrant focus.
- **MT PASA data accuracy**—the Medium Term Projected Assessment of System Adequacy (MT PASA) provides the medium term electricity system supply/demand balance prospects for the next 24 months. Accurate MT PASA data is a critical input to AEMO’s ability to ensure security of supply and the accuracy of risk management in the financial markets. We will compare projected and actual generator availability per generation portfolio.

2.6 PUBLICATIONS AND SUBMISSIONS

2012–13 overview

- In addition to publications related to our work areas, we publish reports to inform stakeholders about broader market issues and developments. These include the annual *State of the energy market* report (released December 2012), which provides a wide ranging overview of energy market outcomes for the calendar year.
- We also made over 30 submissions to energy policy processes when our expertise in network regulation, energy consumer issues and energy markets could bring a valuable perspective.
- We make timely updates to our website to ensure stakeholders are aware of our activities. We added over 2500 decision documents, other publications and submissions to the website in 2012–13.

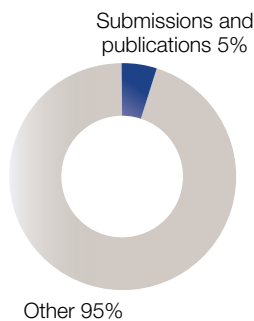
OUR SUBMISSIONS AND PUBLICATIONS

Consumers and other stakeholders need to easily access information about the Australian energy industry. For this reason, we publish a range of information about the sector, including our flagship publication—the annual *State of the energy market* report.

We also consider we can make a valuable contribution to energy policy matters, particularly when we have built expertise through our day-to-day work. So, we make submissions to energy policy reviews and provide information to the bodies conducting those reviews, particularly the AEMC.

OUR RESOURCES USED ON SUBMISSIONS AND PUBLICATIONS

Staff time for submissions and publications, 2012–13



In 2012–13 we spent 5 per cent of our staff time on work related to submissions and publications. These resources included staff who worked on our website, submissions, media and speeches.

OUTCOMES AND WORK COMPLETED IN 2012–13

State of the energy market report

We annually publish *State of the energy market* as an accessible report on activity in Australia's energy industry. The report targets a wide audience, including market participants, policy makers and the wider community. The 2012 edition (published in December) consisted of a market overview and more detailed analysis of activity and performance in each segment of the electricity and gas supply chain. The report draws on information from a range of sources, including our internal monitoring and intelligence, regulatory reviews of energy networks, and external resources. It uses non-technical language to consolidate this material, highlighting trends and key issues across the electricity and gas industries. We publish the report on our website each year, and hard copies are also available.

Submissions

We regularly contribute to policy reviews and rule change proposals when we believe our expertise in network regulation, energy markets and consumer issues can add value. In 2012–13 we made over 30 submissions to various rule change proposals and policy reviews (appendix 1).

Key submissions included those on the AEMC's economic regulation of network service providers rule change. This rule change, which we proposed, reformed the process by which we determine revenues of network businesses. Our other key submissions included those to the Senate Select Committee on Electricity Prices and the Productivity Commission's review of electricity network regulatory frameworks.

Speeches

In 2012–13 the Chair and senior staff gave numerous speeches and presented at many forums and conferences. We published four key speeches on our website:

- Ed Willett, 'Implications of the AEMC's draft rules for consumers', Speech at the Energy Users Association of Australia Annual Conference, 24 October 2012.
- Andrew Reeves, 'Regulated Networks and the Demand-side', Speech at the Energy Efficiency Council National Conference, 17 December 2012.
- Andrew Reeves, 'Regulation, Investment and Energy Prices', Speech for the Committee for the Economic Development of Australia, 24 April 2013.
- Andrew Reeves, 'Consumer Involvement in Energy Regulation', Speech at the Energy Users Association of Australia Market Seminar, 23 May 2013.

A full list of speeches is contained in appendix 2.

Our website

We continually updated our website (www.aer.gov.au) throughout 2012–13 with all of our decision documents, guidelines, other public reports and submissions from third parties. We published over 2500 documents during the year. We also worked to increase the accessibility of our website—for example, by publishing documents in multiple formats. The website includes long term data sets on the performance of the wholesale energy sector. The data is updated regularly and is a useful resource for market participants and the wider community. In 2013–14 we intend to expand these data sets provided on the website to cover other segments of the energy industry.

Media releases and communications

In 2012–13 we released 104 communications (which our website subscribers receive via email) and 27 media releases (see appendix 2).





PART 3
PERFORMANCE INDICATORS






The nature of our work means it is difficult to measure our success easily. But we have established indicators that cover the breadth of our work. Some are objectively quantifiable, while others are quite subjective. Similarly, some indicators are specific deliverables with no measure of quality (for example, whether we deliver a report), while others rely on perceptions of the AER (which we measure through surveys).

AER performance indicators and achievements, 2012–13

The following tables lists our performance indicators for 2012–13. For each indicator, we include a ‘traffic light report’ — a green light indicates we achieved the performance target, and amber and red lights indicate we did not. When we did not meet a performance target, we explain why. And, in some instances, we outline measures to improve our performance.

Formal reporting against the Treasury portfolio budget statements (PBS) and reporting required under s 44AAJ of the *Competition and Consumer Act 2010* is contained in the combined ACCC/AER 2013 annual report. While that report covers the performance of the AER, this chapter and the preceding chapter provide a more detailed account. Appendix 4 outlines the Portfolio Budget Statements (PBS) deliverables and key performance indicators that are relevant to us. In 2013–14 the AER will be treated as a separate program under PBS reporting.

Organisation-wide		  
<i>Report at least once every six months to the SCER on details of our work program, outcomes of major projects and market activity</i>	Achieved. Before each SCER meeting, we provided an update on our key work and strategic issues.	  
<i>Publish key performance indicators for the AER, relating to strategic priorities and work program areas for 2013–14</i>	Published in July 2013.	  
<i>Foster productive partnerships with the community, and consumer and government organisations, and establish processes to effectively share information</i>	Achieved. The Customer Consultative Group met three times to advise on the AER’s functions under the Retail Law. The Consumer Reference Group working on Better Regulation provided significant guidance on new network regulation guidelines. We worked productively with governments, the AEMC, AEMO, state regulators and ombudsman on a range of issues throughout the year. Of note, we worked closely on the handover of retail market regulatory functions with jurisdictional regulators (ACT Independent Competition and Regulatory Commission, Office of the Tasmanian Economic Regulator, Essential Services Commission of South Australia and New South Wales Independent Pricing and Regulatory Tribunal). Also, we maintained a regular dialogue with energy ombudsmen to ensure we are aware of emerging and systemic issues in our markets. We also introduced General Manager level regular meetings with AEMO to share information on enforcement, monitoring and policy matters.	  

<p><i>Consult with consumer representatives to identify barriers to effective engagement in energy markets, and implement strategies in response</i></p>	<p>Achieved. We established the Consumer Reference Group to help our consultation on Better Regulation. We began developing a Stakeholder Engagement Strategy so our processes consistently and transparently consider consumers and other stakeholders' interests.</p>	
<p><i>Ensure stakeholders perceive the AER as a transparent and consultative decision making body</i></p>	<p>Work in progress. We will undertake a new stakeholder survey in 2013–14 to gauge perceptions of the AER. In our 2011 survey, 70 per cent of stakeholders rated us as excellent or good in relation to our independence. In the same survey, 67 per cent of stakeholders said we 'often' or 'always' provided adequate consultation. We are focused on making a significant improvement.</p>	
<p><i>Write all public documents clearly and include plain English explanations</i></p>	<p>Mostly achieved. Some documents are inherently complex, particularly price review decisions. In such cases, to account for different audiences that have different levels of knowledge, we separately release customer consultation papers and consumer guides. Further, decision papers are increasingly layered to allow readers to be more selective in what they read. Our decision papers, for example, have evolved during more recent price reviews to include a standalone, 50 page summary of the decision upfront. The summary makes necessarily long decision papers more manageable and easier to understand.</p>	
<p><i>Respond to all Ministerial requests for information (including from the SCER) within 10 business days</i></p>	<p>Achieved.</p>	
<p><i>Apply a risk based approach to compliance and monitoring activities</i></p>	<p>Achieved. We base our compliance and monitoring activities on a risk assessment of the impact and likelihood of breaches. In deciding which provisions to target for compliance analysis each quarter, for example, we use our risk assessment to focus on those provisions for which a breach has higher impacts and is more likely.</p>	

<p><i>Employ various media to help consumers engage on issues relevant to them, including forums, panels, groups, workshops, meetings, consultation and issues papers encouraging written submissions, our website, newsletters, speeches, educational and outreach material</i></p>	<p>Achieved. The Consumer Reference Group for Better Regulation makes it easier for consumer representatives to meaningfully participate in the regulatory process, and to inform us of issues that affect them, without having to write formal submissions. We have used workshops, forums and roundtables as part of Better Regulation to facilitate the participation of all stakeholders, including consumer representatives.</p> <p>The Customer Consultative Group, which comprises consumer group representatives, met with us three times in 2012–13 to highlight issues raised by their constituents and to help us develop consumer outreach strategies.</p>	
<p><i>Investigate and close major compliance matters in a timely manner, and take appropriate enforcement action, consistent with our public statements of approach to compliance</i></p>	<p>Achieved. We handled all significant matters in 2012–13, including life support obligation breaches, in a timely fashion and consistent with our statement of approach. For some major compliance matters, we need to rely on third parties for information, which created delays. We report major compliance matters in our quarterly compliance reports (for compliance with the National Electricity and Gas Laws) and our retail energy market updates.</p>	
<p><i>Avoid successful challenges and appeals of enforcement matters</i></p>	<p>Achieved. We received no challenges or appeals in 2012–13.</p>	
<p><i>Finalise 50 per cent of compliance/enforcement matters within 60 business days, and 90 per cent within 120 business days</i></p>	<p>Achieved. We finalised 77 per cent of matters within 60 business days and 96 per cent within 120 business days.</p> <p>For some major compliance matters, we need to rely on third parties for information, which can create delays.</p>	

Network pricing decisions



<i>All stakeholders provided with an adequate opportunity to actively participate and engage in our regulatory processes</i>	Achieved. Information about all regulatory processes are published on our website. Submissions are sought in all processes. In addition, we conduct public forums and consultation meetings with stakeholders.	
<i>Strengthen engagement with regulated businesses</i>	Achieved. As an example, we have relationship managers to handle communication with each business. For our network pricing decisions, we undertake extensive consultation with regulated businesses. Regulated businesses can also present key aspects of their proposals to the AER board. We invested in 2012–13 in staff training on stakeholder engagement to enhance our capacity.	
<i>Publish regulatory decisions that clearly set out how we accounted for stakeholder views</i>	Achieved. Our decision documents in 2012–13 show we considered stakeholder submissions.	
<i>Make our decision papers accessible to a wide ranging audience, including consumers</i>	Achieved. In making decisions for Victorian gas prices and South Australian transmission prices, for example, we published consumer guides.	
<i>Make decisions within statutory time limits</i>	Achieved.	
<i>Ensure our regulatory decisions draw on improved data systems, information requirements, analysis techniques and metrics</i>	In progress. As an example, we are consulting with stakeholders on consistent reporting arrangements for economic benchmarking models and consistent expenditure categories as part of the expenditure assessment guideline.	
<i>Draw on increased inhouse technical expertise, including engineering capabilities, and use external consultants more efficiently</i>	Largely achieved. We increased our inhouse technical capability and are looking to expand it again in the next period. External consultants are important to understand the more technical aspects of network pricing proposals. By enhancing our inhouse technical capability, we can seek more targeted assistance from external consultants.	

Avoid technical errors and errors of fact in regulatory determinations (as found by the Australian Competition Tribunal) and make regulatory pricing decisions that the Tribunal upholds on substantive issues, when applicable

Achieved. The Australian Competition Tribunal heard only one appeal in 2012–13. SP AusNet sought review of our revised decision on Victorian advanced metering infrastructure expenditure for 2012–15. The tribunal is expected to make a decision in July–August 2013.



Better Regulation Program



Publish seven clear Better Regulation guidelines in 2013

In progress. We are on track for publishing each of the final Better Regulation guidelines by the end of 2013. We held over 30 workshops, targeting regulated businesses and other stakeholders. We issued a draft consumer engagement guideline and called for submissions on issues papers relating to guidelines on expenditure assessments, rate of return, expenditure incentives, shared assets and confidentiality.



In developing Better Regulation guidelines, prepare consultation documents that clearly set out how we accounted for stakeholders views

Achieved. Each of our consultation documents clearly articulated stakeholder views in a consistent way. The case study in section 2.2 details how we considered consumer perspectives when consulting on one of our Better Regulation guidelines.



Constructively engage in policy reviews and rule change processes arising from the AEMC's Power of choice review

Achieved. We assisted the AEMC's Power of Choice review through submissions. We also released an information paper on our proposed approach to the Demand Management and Embedded Generation Connection Incentive Scheme.



AER staff participated in the industry working group formed by AEMO to help it develop the rule change proposal and supporting procedures to implement the demand response mechanism. AER staff led the subgroup dealing with the scheduling, dispatch and notification process.

Publish monthly Better Regulation newsletters during the guideline development process in 2013


Achieved. We developed a dedicated Better Regulation page on our website, where we publish monthly newsletters and a policy note.



Engage with regulated businesses to encourage the development and effective implementation of consumer engagement plans

Achieved. We engaged with regulated businesses to develop a best practice guideline that will inform their consumer engagement plans. This guideline sets out a framework on how to engage systematically, consistently and strategically with consumers on significant issues. We gave regulated businesses an active role in developing this guideline, by holding meetings with them and seeking their feedback.





<i>Hold monthly Consumer Reference Group meetings until we complete the guideline development under Better Regulation</i>	Achieved. We have held monthly meetings since February 2013. We plan to continue holding monthly meetings until the completion of Better Regulation guideline development.	
<i>Ensure our notices of draft Better Regulation guidelines account for substantive matters raised by the Consumer Reference Group</i>	Achieved. We issued our first draft guideline, the Draft Service Provider Consumer Engagement Guideline, in June 2013. We drafted it in close consultation with stakeholders, including the Consumer Reference Group.	

Oversight of network regulation



<i>Complete annual tariff reviews for electricity distribution networks in the National Electricity Market and covered gas pipelines in jurisdictions other than Western Australia</i>	Achieved. In 2012–13 we reviewed 24 tariff applications from businesses in New South Wales, the ACT, Victoria, Queensland, South Australia and Tasmania for tariffs that will apply in 2013–14 (2013 for Victorian businesses).	
<i>Assess 2012–15 charges for Victorian advanced metering infrastructure and any budget revisions</i>	Achieved. In 2012–13 we reviewed five tariff applications and four applications in relation to remote services to consumers.	
<i>Assess pass through, contingent project and prudent discount applications within legislated timeframes</i>	Achieved. In 2012–13 we assessed 14 cost pass through applications from electricity and gas network businesses.	
<i>Resolve access and connection disputes within legislated timeframes</i>	No disputes received.	
<i>Review RIT-T and regulatory test processes undertaken by electricity network businesses for compliance with the tests</i>	Achieved. In 2012–13 we reviewed a range of regulatory tests / RIT-Ts conducted by businesses. In two cases, we highlighted deficiencies in the processes conducted, and we received undertakings from the businesses to undertake new regulatory test / RIT-T assessments.	
<i>Commence consultation on new electricity RIT-D and associated guideline</i>	Achieved. In 2012–13 we undertook two workshops on the pre-draft RIT-D application guideline and further workshops after the release of the draft guideline.	
<i>Resolve RIT-T disputes within legislated timeframes</i>	No disputes received.	
<i>Publish annual performance reports on all electricity transmission networks (for 2011–12) and distribution networks in the National Electricity Market (for 2010–11 and 2011–12), and on Victorian gas distribution networks (for 2012)</i>	Partly achieved. In 2012–13 we issued the 2009–11 gas performance report for Victorian distribution network service providers. We published the 2010–11 electricity transmission networks performance report in July 2013.	

<p><i>Establish procedures to collect consistent information across network businesses to support network performance and benchmarking reports</i></p>	<p>In progress. As part of developing the expenditure assessment guideline, we consulted on consistent reporting requirements to facilitate benchmarking in future determinations. We expect to release regulatory information notices in 2013–14 to require the data to be provided.</p>	
<p><i>Review the service target performance incentive scheme</i></p>	<p>Achieved. In 2012–13 we reviewed the incentive scheme that is designed to encourage transmission businesses to maintain service standards. SP AusNet will be the first transmission network service provider to which the new scheme will apply.</p>	

Retail markets



<i>Successful implementation of the Retail Law in those jurisdictions that apply it</i>	Achieved. The ACT and Tasmania commenced on 1 July 2012. South Australia commenced on 1 February 2013. The implementation has been successful.	
<i>Make the Energy Made Easy website available to jurisdictions that adopt the Retail Law</i>	<p>Achieved. Energy Made Easy went 'live' at 7 am on 1 July 2012. At that time, it contained all generally available offers in the ACT and generally available small business electricity offers in Tasmania. It also contained residential electricity use benchmarks for all jurisdictions. On 1 February 2012 it was rolled out to South Australia, with all retailers having pre-loaded their offers.</p> <p>For 1 July 2012—31 January 2013, the website had around 5000 visits per month. Since 1 February 2013, when the South Australian offers became available, that number increased to around 13 000 visits per month.</p>	
<i>Ensure at least 95 per cent of generally available retail energy offers appear on the Energy Made Easy website within two business days of submission by retailers</i>	Achieved. This internal target reflects our commitment to ensuring users of Energy Made Easy can access current and accurate information about the offers available in the market.	
<i>Obtain high satisfaction reports from residential and small business customers on using the Energy Made Easy website and finding it a trusted source of information</i>	Achieved. We commissioned usability testing by an independent research firm to assess user views of Energy Made Easy. The feedback from both residential and small business subjects was largely positive, with users reporting high levels of confidence in the information provided on the site. We also received positive feedback through informal channels, including from consumer representatives and other government agencies.	

<p><i>Regularly inform industry, consumers and other stakeholders of retail market performance</i></p>	<p>Achieved. We published three issues of Retail energy market update—performance (for each of the first three quarters of 2012–13) and included detail on market share, contracts, customer hardship and disconnection, and customer debt levels.</p> <p>We published one issue each of Retail energy market update—compliance and Retail energy market update—consumer issues (six monthly publications), and included details on our compliance and enforcement activity, emerging issues and information about consumer rights in relation to consumer welfare concerns that compliance monitoring activities identify.</p>	
<p><i>Assess 90 per cent of retail authorisation and individual exemption applications within 12 weeks of receipt of all relevant information</i></p>	<p>Achieved. We granted six national retailer authorisations and the formal assessment and approval process for each was conducted within the estimated 12 week timeframe. We granted one individual exemption within the relevant timeframe.</p>	
<p><i>Hold three Customer Consultative Group meetings and ensure feedback and guidance on energy issues affecting consumers are used to inform the development of information materials and products</i></p>	<p>Achieved. We sought the input of the Customer Consultative Group's on the development of products such as our Service Charter and other consumer publications. We employed an external consultant to conduct usability testing of Energy Made Easy with residential and small business customers. The findings of that process will inform the next phase of development.</p>	
<p><i>Assess and respond to exception reports submitted by retailers and distributors, providing an initial response to exceptions raised in immediate reports (on matters including unlawful de-energisation of customers and protections for life support customers) within two business days</i></p>	<p>Achieved. In 2012–13 we received 55 immediate reports and provided an initial response to each within two business days.</p> <p>We received the first biannual exception reports (for the period 1 July to 31 December 2012) on 28 February 2012 and provided responses to all reports to businesses.</p>	
<p><i>Publish biannual compliance reports (in November 2013 and March 2014), with accompanying notes for caseworkers and other consumer intermediaries, that educate stakeholders and promote a compliance culture in the industry</i></p>	<p>Achieved. We released our first biannual compliance report and accompanying consumer information publication in March 2013. The second publication will be contained in our annual retail performance and compliance report, to be published by November 2013. These reports include information on compliance issues identified by and to the AER, the resolution of those issues, trends or patterns of concern, and future areas for AER focus in relation to compliance in retail markets.</p>	

<p><i>If required, respond to a retailer failure following the procedures set out in the AER's RoLR plan and guideline published on our website, to ensure affected consumers are allocated to another retailer within one business day</i></p>	<p>No RoLR events occurred.</p>	
<p><i>Assess the hardship policies of new entrant retailers, and any proposed amendments to approved policies within 12 weeks of receiving all relevant information</i></p>	<p>Achieved. In 2012–13 we approved three hardship policies for new entrants, and varied two policies for transitioned retailers. Three new entrant retailers had, at the time of authorisation, no plans to enter the residential customer markets; on that basis, we conditionally deferred the approval of policies.</p>	
<p><i>Develop educational programs and materials that provide residential and small business customers with clear and useful information about their energy rights, and improve community-wide understanding of energy issues</i></p>	<p>Achieved. Our early focus has been on raising consumer awareness of Energy Made Easy and the Retail Law in those jurisdictions in which the law has commenced. In 2012–13 we released seven consumer factsheets on topics such as how to resolve complaints about energy services, how to switch contracts and how to understand energy bills. We worked with consumer organisations to distribute these factsheets, including at expos and consumer conferences. The factsheets were well received, with positive feedback from stakeholders (including financial counsellors and community organisations).</p> <p>We updated content on Energy Made Easy to address issues of interest to consumers (issues that we identified through search terms, for example).</p>	

Wholesale markets



Publish 75 per cent of electricity and gas weekly reports within 12 business days of the relevant trading week, and ensure they contain accurate and accessible analysis

Not achieved. In 2012–13 we published 67 per cent of the weekly reports within 12 business days of the relevant week. We devoted significant effort to improve the timeliness of our weekly reports. But complex market outcomes often require further investigation with the market participant or AEMO, resulting in publication delays. In January/February 2013 there were very complicated disorderly bidding market outcomes in Queensland and in May/June 2013 very tight demand–supply balances (with associated complicated market outcomes) occurred in South Australia.

We worked on updating the format of our electricity weekly reports to make them more relevant and meet accessibility requirements. We will release the new format early in 2013–14.



Publish quarterly compliance reports within six weeks of the end of the relevant quarter

Generally Achieved. We published wholesale energy markets quarterly compliance reports in July 2012, October 2012, February 2013 and April 2013. The October–December 2012 quarter report was published just outside of the six week threshold due to delayed receipt of information during the holiday period.



Complete five audits of participant systems that are critical to market efficiency and energy security

Achieved. In 2012–13 we completed two audits of generators' technical compliance programs. We also audited three gas market pipeline providers to assess their performance in providing timely and accurate information.



Conduct 12 targeted compliance reviews

Achieved. In 2012–13 we conducted targeted compliance reviews of 14 participants across three obligations, so exceeded this target.



Review participants' demand forecasts in the gas STTM for accuracy

Achieved. In 2012 we began monitoring demand forecasting accuracy of STTM participants, to help reduce scheduling inefficiencies. The development of metrics, measuring demand forecasting error, highlighted a number of participants with systemic under or over forecasting patterns. We presented a summary of the project (including comments from participants with highlighted error patterns) in the last Quarterly compliance report—national electricity and gas laws of 2012. The first quarterly report for 2013 highlighted an apparent reduction in systemic over/under forecasting of demand. We will continue to monitor demand forecasts.



Report on data irregularities in gas spot markets in Victoria, Sydney, Brisbane and Adelaide

Achieved. We included our reports in Quarterly compliance reports—national electricity and gas laws (see box on STTM data errors, section 2.5).



Publish reports on extreme price events in the NEM (prices above \$5000 per megawatt hour and below -\$100 per megawatt hour) and significant price variations in spot gas markets, within statutory timeframes

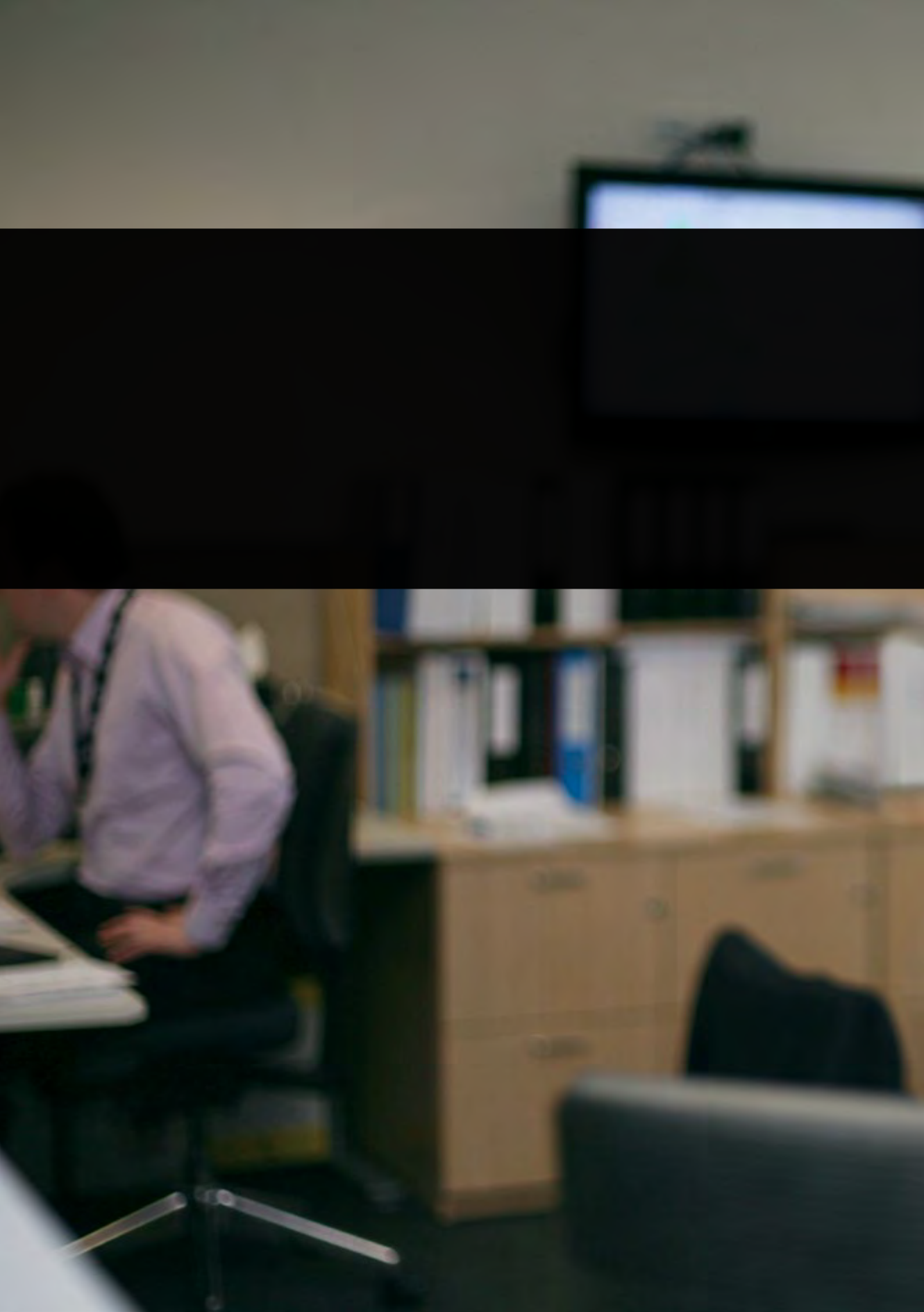
Achieved. In 2012–13 we released three reports on electricity markets and three reports on gas markets.



Publications and submissions



<p><i>Make submissions to the AEMC, the SCER and other policy bodies which reflect our objectives and are based on our experience in regulation and monitoring of markets</i></p>	<p>Achieved. In 2012–13 we made over 30 submissions on policy matters. Final policy decisions referred to our submissions extensively (see section 2.6 and appendix 1).</p>	
<p><i>The State of the energy market report and the AER website are accessible, informative and well received in the market</i></p>	<p>Achieved. We continue to receive positive feedback about the <i>State of the energy market report</i>. This mirrors positive feedback from earlier stakeholder surveys. In the 2011 stakeholder survey, 77 per cent of stakeholders rated the report good or excellent.</p> <p>Our website, relaunched in late May 2012, aims to be as inclusive as possible. Improved usability and functionality help users access a comprehensive suite of information more effectively. Also, a consistent look and feel, with content categorised into key stakeholder areas, enable users to engage with the content more efficiently. Further, a new self-managed subscription service enables more targeted and effective communication with stakeholders. Informal feedback on the site's accessibility and information has been very positive.</p> <p>Our upcoming stakeholder survey will provide further information about this target.</p>	
<p><i>Publish the State of the energy market report in December 2012, with useful background material and analysis to assist policy reviews affecting energy markets</i></p>	<p>Achieved.</p>	
<p><i>Expand and maintain long term data on wholesale market trends on AER website</i></p>	<p>Achieved, particularly in relation to new wholesale gas market data that we added to the website in 2012–13.</p>	
<p><i>Have the AER board and senior executives participate in strategic opportunities to communicate with stakeholders via speeches, forums and the media</i></p>	<p>Achieved. The Chair and senior executives participated in a range of forums and gave over 20 presentations, including four presentations that we published on the website.</p>	



PART 4
OUR PEOPLE





Our staff are committed to making Australia's energy markets work for consumers, now and in the future. By undertaking our work professionally and expertly, we can make a real difference.

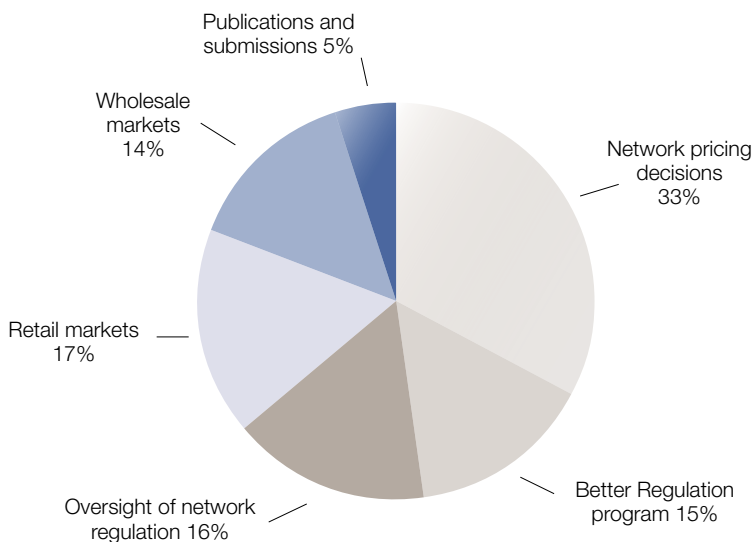
STAFF NUMBERS

Staffing in our branches averaged 126 full time equivalent (FTE) staff in 2012–13. This number included the state/territory board members and the CEO. Our staffing is supplemented by:

- staff from the ACCC's Regulatory Development Branch (expert economists) and Legal Group. The combined contribution was at least 14 FTE over the year. But this total varies from year to year. In years when there are many reviews of our network pricing determinations being considered in the Australian Competition Tribunal, or enforcement matters are underway, the contribution of the ACCC's Legal Group will increase. Similarly, in years when we are developing new regulatory guidelines, the contribution of the ACCC's Regulatory Development Branch will increase.
- staff from the ACCC's corporate branches, including Finance and Corporate Services, Information Management and Technology Services, Human Resources and Strategic Communications
- staff from other ACCC branches that help us on an ad hoc basis.

The following diagram aggregates data from part 2 'Report on performance', showing where staff worked in 2012–13. The three network regulation work areas (network pricing decisions, Better Regulation and the oversight of network regulation) take up a majority of staff time. The work on Better Regulation used significant resources for the second half of the year, so the 15 per cent figure significantly underestimates the number of staff dedicated to this workstream towards the end of 2012–13. From 2013–14 our focus will revert to the large network pricing decisions workload, particularly once the Better Regulation guidelines are finalised.

Allocation of AER staff time across functions, 2012–13



Peter Adams, Director



Peter has 34 years' experience in the energy industry. Beginning work in a variety of technical roles, he spent 17 years in Victoria's power system control centre, including managing operations and coordinating trials for a national grid. With the introduction of the National

Electricity Market in 1998, Peter became a founding member of the National Electricity Code Administrator, with responsibilities for compliance monitoring and enforcement. He carried these skills through to the AER when it was formed in 2005, developing our compliance monitoring and enforcement strategy and systems for wholesale energy markets. Peter is our principal representative in an international forum to exchange ideas among market monitoring and enforcement agencies covering 20 electricity markets. He has a Bachelor of Engineering in electrical power systems and postgraduate qualifications in technology management.

STAFF PROFILE

STAFF TURNOVER

Our staff turnover for 2012–13 was 5.5 per cent (including staff who moved to other branches of the ACCC, and those who left the Australian Public Service). We believe the low turnover reflects our commitment to providing rewarding work and flexible working arrangements for our staff. These arrangements include individual flexibility arrangements, which allow employees to negotiate remuneration, allowances and leave entitlements, and special salary levels. And we can pay a special rate of salary to high performing employees and employees with special knowledge, skills and qualifications. The flexibility provided by these arrangements gives us the ability to attract and retain appropriate staff.

OUR CAPABILITY

We are now a broad based team of energy specialists—experts in the operation of wholesale and retail energy markets, in energy network regulation, and in energy market compliance and enforcement. Reflecting the various demands of our work program, our team includes economists, engineers, lawyers and accounting/finance specialists.

Our current staff have a diverse range of relevant experience. Some staff joined us from other energy regulators, both state utility regulators and international energy regulators such as the Office of the Gas and Electricity Markets (Ofgem) in Great Britain. Others came from consulting firms and the energy sector. Even though we are a relatively young organisation, we have many staff with years of

experience in energy sector issues. Over one quarter of our staff have more than 10 years' experience in energy market issues. This broad skill base and experience gives us the flexibility to deal with a wide range of complex energy market issues.

BUILDING CAPABILITY

In 2012–13 we recruited staff to build our capability to meet the demands of our challenging work program. As highlighted in our 2012–13 strategic priorities, a particular focus was to build our inhouse technical capacity (in electrical and gas system engineering, for example) to engage more directly and effectively with network businesses and other stakeholders. This expertise complements the internal expertise we have already developed and supplements our externally appointed technical expertise in network issues. We received funding to further build this technical capability in 2013–14. In addition, we have mechanisms in place to ensure we keep up to date with regulatory best practice.

We have had staff exchanges with AEMO and international regulators. In 2013–14 we will do a staff exchange with the Alberta Market Surveillance Administrator, and we recently did an exchange with the Energy Market Authority of Singapore. We also have an ongoing formal staff exchange arrangement with Ofgem. In 2012–13 two AER staff members had secondments at Ofgem, while two Ofgem staff members were with us.

LOOKING AFTER OUR PEOPLE

Training and development

In 2012–13 we continued to increase the capabilities of our staff by offering learning and development opportunities. Our training program had a key focus on improving the technical skill base of our staff. It included tailored courses on the principles of energy network regulation, and on the operation of the wholesale electricity market, gas markets and financial markets. Training also targeted the effectiveness of our employees and our working environment. It included courses on leadership, project management, writing skills, stakeholder engagement and respect in the workplace.

As part of our performance development framework, each staff member also has an Individual Action Plan to develop their capabilities. Regular reviews and one-on-one feedback sessions are key to the plan framework.

Wellbeing

The health and wellbeing of our staff is core to them successfully undertaking their roles. So, we stress the importance of an appropriate work–life balance for our staff. We have a workplace health and wellbeing program, focusing on both physical and mental health. And we offer a healthy lifestyle reimbursement program, health check-ups and a winter vaccination program.

Angela Bourke, Director



Angela has over 12 years' experience dealing with social and consumer policy issues in the energy sector, both in Australia and Great Britain. Joining the AER in 2010, she helped develop our role in retail energy regulation, and led our work on hardship and affordability issues. In 2013 she established the inaugural Consumer Challenge Panel. During her four years at Ofgem—Great Britain's energy regulator—she worked on tackling fuel poverty, developing and monitoring social tariffs offered by energy retailers, and improving protections for vulnerable consumers. 'Energy hardship and affordability are complex issues with no simple solution and will continue to be an important focus for the AER. This work has a direct impact on the lives of many Australians, making this a highly rewarding area to participate in.' Angela holds bachelor degrees in science and arts.

STAFF PROFILE

Remuneration

Remuneration for AER board members is determined by the Remuneration Tribunal, in accordance with the *Remuneration Tribunal Act 1973*, Determination 2010/10 Remuneration and Allowances for Holders of Full-Time Public Office and Determination 2010/11 Remuneration and Allowances for Holders of Part-Time Public Office. The table below sets out the nature and amount of remuneration of AER board members in 2012–13.

Remuneration of AER board, 2012–13

Position	Base salary	Total remuneration of office
Chair	\$350 000	\$500 000
Commonwealth member (full time with the ACCC and AER)	\$237 250	\$325 000
Part-time state/territory member	\$1081/day	

We offer competitive remuneration packages to our staff. Most staff are employed under an enterprise agreement that sets out remuneration, leave entitlements, and other working conditions and allowances. Under this agreement, staff received a 3 per cent salary increase on 1 July 2012, with a further 3 per cent increase due on 1 July 2013. Our CEO, general managers and some specialist staff are subject to individual determinations covering remuneration, leave and other employment conditions.

The table below sets out AER staff (not board members) remuneration in 2012–13. It does not include superannuation contributions, allowances or performance pay.⁵

Remuneration of AER staff, 2012–13

Annual salary	Percentage of staff
Under \$60 000	7.9%
\$60 000 to \$80 000	29.3%
\$80 000 to \$100 000	20%
\$100 000 to \$120 000	23.6%
\$120 000 to \$140 000	13.6%
\$140 000 to \$160 000	0.7%
\$160 000 to \$180 000	3.6%
Above \$180 000	1.4%

Anthony Seipolt, Technical Advisor



Anthony is one of our Technical Advisors, providing expert advice on benchmarking and other network issues to the board, executive and staff. He has over 20 years' experience in energy and water utility management and regulation. As the lead in an international benchmarking

consultancy, Anthony advised businesses, government and regulators, and managed performance reviews for over 200 electricity and water companies globally. He has a Master of Business Administration and is a former national manager and director of Parsons Brinckerhoff Associates. Anthony has held board positions for community not-for-profit organisations and is President of the largest bicycle racing club in Australia. 'What I love about my role is the diversity of challenges and the opportunity to work in a multidisciplinary team to improve outcomes for consumers. I really love learning something new every day.'

STAFF PROFILE

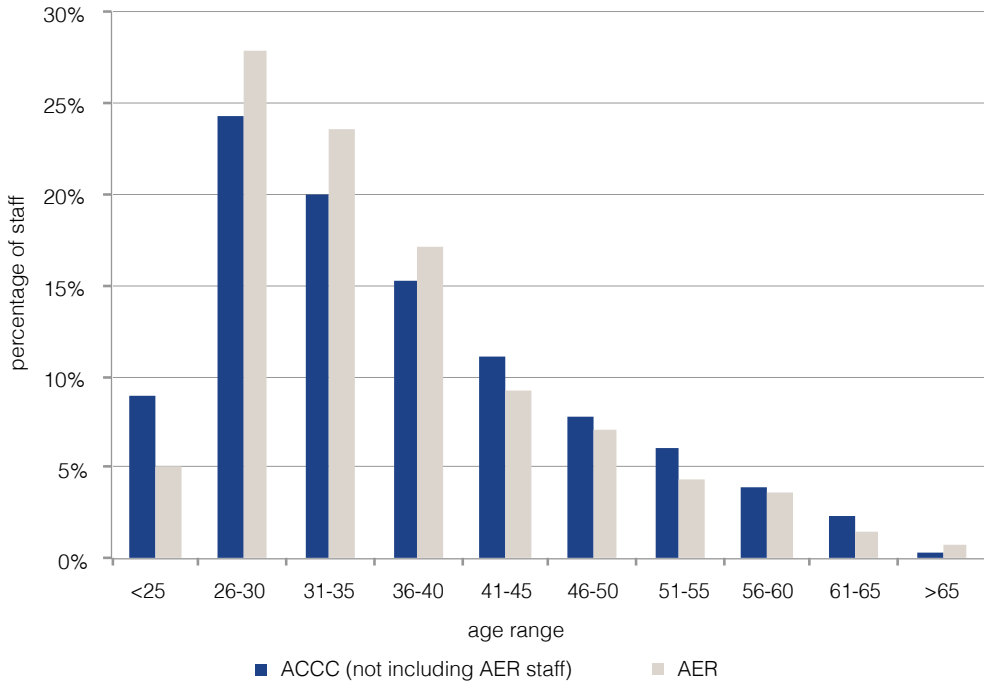


⁵ The remuneration data and the workforce planning data in this chapter include only core AER staff, not staff in the Legal Group, the Regulatory Development Branch, the Corporate Group or other branches that assist the AER.

WORKFORCE PLANNING—AGE AND GENDER PROFILE

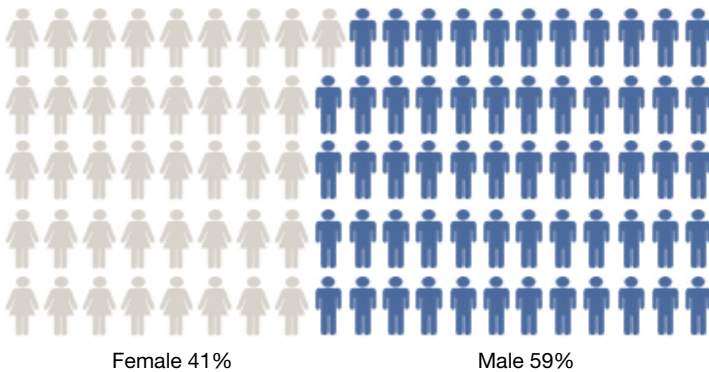
We are committed to developing a sustainable AER. The diagram below shows the age profile of our staff. It demonstrates a core of experienced staff, yet also reflects our commitment to employing and developing more junior staff. This chart also provides the ACCC’s age profile for the purposes of comparison.

Age profile of AER and ACCC staff, 30 June 2013

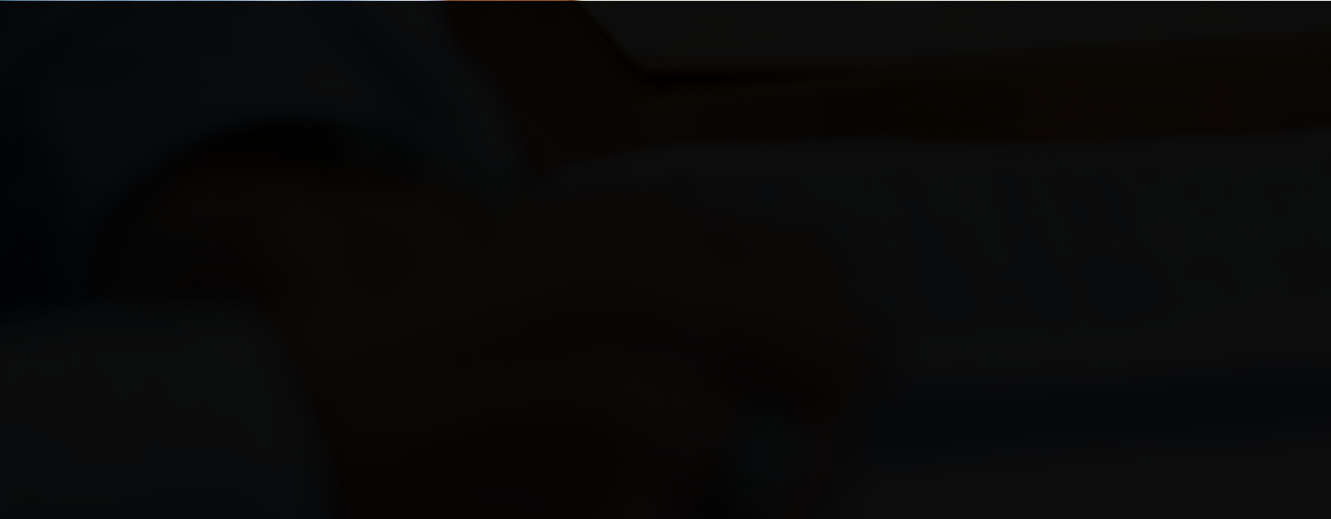


We are also committed to a diverse workforce. Of our six senior managers, two are women, including the CEO.

Gender profile of AER staff, 30 June 2013









PART 5
OUR EXPENDITURE



We aim to be transparent with our stakeholders about our expenditure. Although the ACCC annual report contains the detailed financial reports for the combined ACCC and AER, this chapter provides a snapshot of the AER's expenditure in key areas.

EXPENDITURE ON CONSULTANTS

Our total expenditure on consultants in 2012–13 was over \$3.3 million (GST exclusive). This figure includes consultancy contracts organised through our core branches. It excludes consultancy arrangements with experts who work on AER matters full time and work in our offices. It also excludes IT consultancy contracts, corporate consultancy contracts and consultancy contracts entered by the Regulatory Development Branch for expert advice on regulatory economics issues (many of which will relate to matters before the AER board).

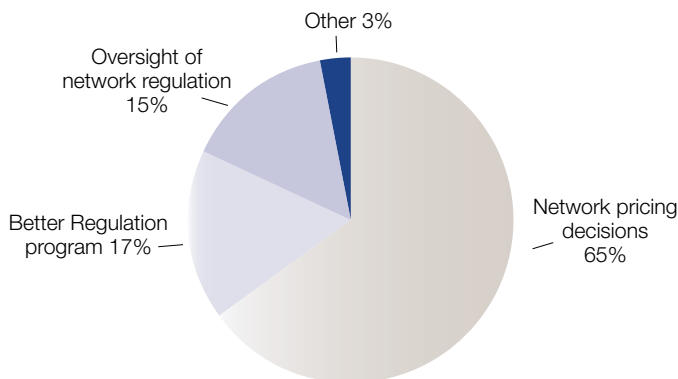
Most of our consultancy expenditure arises in the network pricing decisions area (over \$2 million during 2012–13), when we require expert to assess the proposals of the network businesses. Our expenditure on consultancies on network pricing decisions is likely to be significant in coming years, given the large number of network pricing decisions to be made over the next three years.

EXPENDITURE ON EXTERNAL LAWYERS

We use significant inhouse legal expertise (see part 1). But we also use external lawyers, particularly for appeals to the Australian Competition Tribunal or the courts, enforcement matters and ad hoc advice. Our total expenditure on external lawyers in 2012–13 was just under \$0.5 million (GST exclusive). This figure excludes external legal advice sought by the corporate area (on human resource matters, for example).

The following diagram breaks down the combined consultancy expenditure and external legal expenditure across the our work areas.

Consultancy and external legal expenditure, by AER work area, 2012–13



EXPENDITURE ON TRAVEL

Our expenditure on travel for 2012–13 was just over \$400,000. This expenditure was mostly on domestic travel, and includes travel by board members, travel allowance, flights, ground travel and accommodation. It excludes travel by the Regulatory Development Branch and Legal Group staff. In terms of international travel, AER staff attended two Energy Intermarket Surveillance Group meetings (see 'Our links with other energy bodies' in part 1) in North America, the Chair gave a presentation at the Asia Pacific Energy Regulator Forum in Washington, and two staff participated in a staff exchange with Ofgem (the UK regulator).

EMPLOYEE COSTS

Total wage and associated costs (for example, leave entitlements and superannuation) for AER staff were just over \$15.5 million for 2012–13. This figure includes costs for AER board members, but excludes costs for the Regulatory Development Branch, Legal Group and Corporate Group staff.

CORPORATE OVERHEADS AND OTHER COSTS

Our corporate overheads are combined with those of the ACCC. They include the costs of Corporate Group staff (Finance and Corporate Services, Information Management and Technology Services, Human Resources, and Strategic Communications), facilities/accommodation, IT contracts/capital and all other costs associated with our offices. Other significant costs of the AER included over \$0.5 million on the Energy Made Easy website.

ASSUMPTION
 OWNER FINANCING (TRE
 ENERGY PROGRAM (REPR
 SERVICE CHARGE
 RERNMENT FEE
 L ENERGY CHARGE
 ELECTRIC SERVICE AMOUNT



AVG KWH
 PER DAY
 10.5
 27.0
 1.60
 AVG COST
 PER DAY



Meter Reading
 Previous 33677
 Current 34001
 KWH x .1197200
 KWH x .0005900
 KWH x .0002800
 KWH x .0003900
 5%
 324.00
 324.00
 324.00
 324.00

\$49.55

2-13





PART 6
APPENDIXES

Appendix 1

AER SUBMISSIONS

Submissions to the reviews of the Standing Council on Energy and Resources

SCER's review of the limited merits review regime

The limited merits review regime provides for an affected or interested person to apply to the Australian Competition Tribunal for a limited review of our electricity network revenue and pricing determinations and gas pipeline access arrangement determinations. The SCER is reviewing this regime.

In 2012–13 we made four submissions on discussion papers, reports and the regulation impact statement for this review. On 28 August 2012 we provided a response to the review's stage two discussion paper. We provided a further submission on 24 September 2012. On 30 October 2012 we made a joint submission with the ACCC in response to the final stage two report. On 7 February 2013 we provided a joint response with the ACCC on the regulation impact statement released by the SCER.

Our submissions argued the current limited merits review regime has significant weaknesses that need to be addressed. We supported retaining the Australian Competition Tribunal as the review body.

SCER's national energy consumer body review

On 8 March 2013 we provided a joint response with the ACCC to the SCER expert advisors' consultation paper. The submission supported the creation of a national energy advocacy body that has the skills and capacity to engage in vigorous and robust debate with industry and government energy stakeholders. It outlined key considerations—in terms of structure, governance, roles and functions—for ensuring the body can advance the long term interests of energy consumers.

Submissions to rule changes by the AEMC

AEMC's rule change on the publication of zone substation data

On 27 May 2013 we provided a submission in response to the AEMC's rule change consultation paper. The submission supported the proposal to publish historical electricity load data at the zone substation level.

AEMC's rule change on the recovery of network support payments

On 17 May 2013 we provided a submission in response to the AEMC's rule change consultation paper. The submission supported minimising barriers to the use of network support, but suggested the consideration of mechanisms other than those outlined in the proposed rule change.

AEMC's rule change on a cost allocation method

On 5 June 2013 we provided a submission supporting the AEMC's draft rule determination to not make the proposed rule.

AEMC's rule change on connecting embedded generators

On 1 August 2012 we provided a submission on the AEMC's rule change consultation paper. The submission focused on the proposal that embedded generators should be exempted from paying shared network augmentation costs.

AEMC’s rule change on network service provider expenditure objectives

On 7 March 2013 we provided a submission on the AEMC’s rule change consultation paper. The submission supported the intent of the rule change, but suggested alternative rule drafting.

AEMC’s rule change on potential generator market power in the National Electricity Market

On 1 August 2012 we provided a submission on the AEMC’s draft rule change determination. The submission highlighted concerns with both the analytical framework and the conclusions in the draft determination.

AEMC’s rule change on interregional transmission charging

On 29 January 2013 we provided a submission on the AEMC’s second draft rule change determination. The submission supported the introduction of interregional transmission charging as recommended in the draft determination, but raised concerns about the governance and implementation of the proposed rule.

AEMC’s rule change on the economic regulation of network service providers

In 2012–13 we provided three submissions on this rule change, which we proposed. On 5 October 2012 we provided a submission on the AEMC’s draft rule determination. The submission highlighted that the AEMC’s draft rules represent a significant improvement to the rules and address the major issues highlighted in our rule change proposal. On 25 October 2012 we provided a supplementary submission, commenting on the legal drafting of the proposed rule. And on 25 October 2012 we responded to the proposed transitional arrangements.

AEMC’s rule change for distribution losses in expenditure forecasts

On 21 September 2012 we provided a supportive submission on the AEMC’s draft rule determination.

AEMC’s rule change on the distribution network planning and expansion framework

On 9 August 2012 we provided a broadly supportive submission on the AEMC’s draft rule determination. The submission focused on the proposed RIT -D and the importance of competitive neutrality under the RIT-D.

AEMC’s rule change on the assumed use of imputation credits

On 10 August 2012 we provided a supportive submission on the AEMC’s draft rule determination. The submission agreed with the AEMC’s position that all WACC variables need to be assessed at the one time.

AEMC’s rule change on pipeline operators’ cost recovery processes

On 1 June 2012 we made the rule change request. On 16 May 2013 we provided a largely supportive submission on the AEMC’s draft rule determination. The submission also outlined minor amendments to improve the operation of the proposed rule.

Submissions to AEMC reviews

AEMC’s review of management of negative interregional settlements residues

On 31 May 2013 we made a submission in response to the AEMC’s issues paper. The submission highlighted our recent work on short term solutions to congestion issues.

AEMC's review of the national framework for distribution reliability

On 12 April 2013 we made a submission that broadly supported the approach proposed by the AEMC but also suggested enhancements to the AEMC's proposed model, to strengthen the links between reliability target setting and revenue determinations.

AEMC's review of the national framework for transmission reliability

On 17 May 2013 we made a submission on the AEMC's issue paper. The submission focused on two areas: the importance of building flexibility in the regulatory framework, and governance arrangements.

AEMC's review of NEM financial market resilience

On 31 July 2012 we made a submission on the AEMC's issues paper. The submission focused on existing RoLR arrangements and issues from potential cascading retailer failure if a large retailer fails.

On 20 December 2012 we made a submission on the AEMC's options paper. While welcoming proposed refinements to the RoLR regime, the submission noted RoLR arrangements are not appropriate for dealing with large retailer failure.

AEMC's transmission frameworks review

On 15 October we made a submission on the AEMC's second interim report. The submission discussed three main areas: transmission planning, the proposed Optional Firm Access model, and connections to the network. The submission argued the AEMC's proposals are a positive development for the market, even while issues remain in each of the three areas.

AEMC's review of energy market arrangements for electric and natural gas vehicles

On 2 October 2012 we made a submission on the AEMC's draft advice. The submission principally focused on vehicle battery charging and its relationship with the National Energy Retail Law.

AEMC's Power of Choice review, stage 3: distribution service providers

On 12 October 2012 we made a submission on the AEMC's draft report to support its broad direction. The submission responded to a number of issues raised in the draft report, including demand side participation in the wholesale electricity market; consumer information, education and engagement in terms of demand side participation; and network issues, including measures to incentivise distribution businesses.

AEMC's review of distribution reliability outcomes and standards:

New South Wales workstream

On 13 July 2012 we made a supportive submission on the AEMC's draft report. The submission also highlighted issues to be raised in the national workstream of this report.

AEMC's review of distribution reliability outcomes and standards:

national workstream

On 13 August 2012 we made a submission to the AEMC's issues paper. The submission focused on the expected effect of a consistent national framework for distribution reliability standards on the economic regulation process.

Other submissions

Senate Select Committee inquiry into electricity prices

On 17 September 2012 we made a submission to the Senate Select Committee inquiry into electricity prices. The submission highlighted key drivers of recent price increases, but emphasised that a range of reforms (including changes to the network regulation framework and uniform adoption of the National Energy Customer Framework), have the potential to curb electricity price increases in the future.

On 19 October 2012 we provided a response to Questions on Notice from the Senate Select Committee. The questions related to our use of capital expenditure incentive schemes and ex-post reviews, and the behaviour of private and public sector owned utilities.

Productivity Commission's electricity network regulatory frameworks review

In 2012–13 we made three submissions to this review. On 30 November 2012 we provided a response to the review's draft report. Our submission emphasised the Productivity Commission's considered contribution to the debate in some areas covered by the review's terms of reference (namely, benchmarking and interconnectors). But, for other areas (particularly governance issues and the operation of the regulatory regime), the submission highlighted flaws in the Productivity Commission's analysis. On 22 February 2013 we provided a submission in response to the Productivity Commission's request for more information on our resourcing and for our views on the use of price caps versus revenue caps. Then, on 22 March 2013 we responded to a request for more information on potential interim solutions to disorderly bidding.

Department of Human Services' independent review of the Centrepay system

On 8 April 2013 we provided a joint submission with the ACCC, highlighting concerns with Centrepay and potential ways of mitigating these concerns.

Appendix 2

NEWS RELEASES AND SPEECHES

News releases for 2012–13

Title	Date
Energy Made Easy website gives ACT power to compare	1-Jul-12
New Energy Made Easy website to help Tasmanian households and small businesses	1-Jul-12
Regulator welcomes proposed changes to energy network rules	23-Aug-12
AER clarifies pass through event for SP AusNet	30-Aug-12
AER issues draft decision on SP AusNet's access arrangement	11-Sep-12
AER issues draft decision on APA GasNet's access arrangement	11-Sep-12
AER issues draft on two Victorian gas pipelines	24-Sep-12
Next wave of energy market reform must enable greater consumer involvement	27-Sep-12
AER varies Victorian electricity network charges following Tribunal decision	2-Oct-12
AER and ACCC issue joint 2011-2012 Annual report	16-Oct-12
AER says that fixing electricity market rules vital to energy reform	24-Oct-12
South Australian transmission customers to pay no more to receive existing levels of service	30-Nov-12
AER Draft decision on ElectraNet's revenue proposal	30-Nov-12
Better Regulation – For the long term interests of consumers	18-Dec-12
AER approves Victorian electricity network tariffs for 2013	19-Dec-12
AER takes enforcement action on life support obligations	19-Dec-12
AER Releases <i>State of the energy market</i> report	20-Dec-12
South Australian consumers now have the power to compare	6-Feb-13
AER rejects big increases in SP AusNet smart meter expenditures	11-Feb-13
AER working to improve compliance outcomes in gas and electricity	26-Feb-13
AER releases Victorian gas distribution business performance report 2009-2011	13-Mar-13
AER issues final decision on the Victorian gas price reviews	15-Mar-13
AER seeks expressions of interest for consumer challenge panel members	28-Mar-13
AER decision on cost pass through framework for SP AusNet	19-Apr-13
AER launches new long-term electricity compliance initiatives	22-Apr-13
AER releases final decision on South Australian electricity transmission revenue	30-Apr-13
AER final decision on Murraylink revenue to have minimal impact on residential bills	30-Apr-13

Speeches for 2012–13

Conference/Event	Speaker	Date
Energy Networks Association—Regulation Seminar—Brisbane	Andrew Reeves	25-Jul-12
Smart Grid Australia Conference—Melbourne	Andrew Reeves	12-Sep-12
China Business Forum—Sydney	Andrew Reeves	25-Sep-12
Australian Economics Society—Canberra	Andrew Reeves	13-Nov-12
Australian Institute of Energy National Conference—Sydney	Andrew Reeves	20-Nov-12
Energy Efficiency Council national conference—Sydney	Chris Pattas	5-Dec-12
SMART Energy Demand Forum—Sydney	Ed Willett	5-Feb-13
Energy Savings Summit—Adelaide	Chris Pattas	12-Feb-13
Australian Power Institute Summer School—Adelaide	Chris Pattas	18-Feb-13
Grattan Institute Roundtable—Canberra	Andrew Reeves	5-Mar-13
ACCC National Consumer Congress—Sydney	Andrew Reeves/ Michelle Groves	15-Mar-13
Committee for Economic Development of Australia—2013 Energy Series—Sydney	Michelle Groves	18-Mar-13
Uniting Care Australia Energy Affordability Forum—Canberra	Michelle Groves	19-Mar-13
ANZSOG and Europe Australia Business Council Conference—Melbourne	Andrew Reeves	20-Mar-13
Commonwealth Bank Board lunch—Adelaide	Andrew Reeves	21-Mar-13
Grattan Institute—Is Australia's energy market functioning efficiently?—Sydney	Andrew Reeves	22-Apr-13
Committee for Economic Development of Australia—Energy Series 2013—Melbourne	Andrew Reeves	23-Apr-13
Energy Users Association of Australia—National & Victorian Energy Market Seminar—Melbourne	Andrew Reeves	23-May-13
UBS Conference—Sydney	Andrew Reeves	14-Jun-13
11th Annual Australian Energy and Utility Summit—Melbourne	Andrew Reeves	18-Jun-13
Victorian Farmers Federation Conference—Melbourne	Michelle Groves	28-Jun-13

Appendix 3

DECISIONS, REPORTS AND CONSULTATIONS

Electricity transmission decisions

- Final decision: Electricity transmission determination—ElectraNet (SA)—Regulatory control period 1 July 2013 to 30 June 2018, April 2013
- Final decision and electricity transmission determination: Murraylink (VIC-SA)—Regulatory control period 1 July 2013 to 30 June 2018, April 2013
- Draft decision: Negotiated transmission service criteria SP AusNet, April 2013
- Final decision: Approve SP AusNet negative cost pass through for Easement Tax Change Event, March 2013
- Final decision: Include nominated cost pass through events in Powerlink's 2012–17 transmission determination, March 2013
- Final decision: Electricity transmission service target performance incentive scheme (STPIS), December 2012
- Draft decision: Electricity transmission determination—ElectraNet (SA)—Regulatory control period 1 July 2013 to 30 June 2018, November 2012
- Draft decision: Electricity transmission determination—Murraylink (VIC-SA)—Regulatory control period 1 July 2013 to 30 June 2018, November 2012
- Final decision: determination on the cost thresholds associated with the Regulatory Investment Test for Transmission, December 2012
- Draft decision: New electricity transmission service target performance incentive scheme (STPIS) and accompanying explanatory statement, September 2012
- Draft decision: determination of the cost thresholds for the Regulatory Test for Transmission, September 2012

Electricity distribution decisions

- Draft decision: Proposed rewards/penalties for Victorian Distribution Businesses under the 'f-factor scheme', June 2013
- Decision: Approve electricity tariffs for non-Victorian distribution network service providers, Ausgrid (NSW), Ergon Energy (QLD) and SA Power Networks (SA), June 2013
- Decision: Approve proposed 2013–14 network tariffs for non-Victorian distribution network service providers: ActewAGL (ACT), Aurora Energy (TAS), Endeavour Energy (NSW), Essential Energy (NSW) and Energex (QLD), May 2013
- Decision: Approve 2011–12 Demand management incentive allowance expenditure for ActewAGL (ACT), Ausgrid (NSW), Endeavour Energy (NSW), Essential Energy (NSW) and Ergon Energy (QLD), April 2013
- Draft decision: Amendment to accounting ring-fencing guidelines applying to Aurora Energy, April 2013
- Final decision: Cost pass through framework for SP AusNet, April 2013
- Revised decision: Reject proposed increases in SP AusNet smart meter expenditures, February 2013
- Final decision: Approve ActewAGL Cost pass through application—National Energy Customer Framework—July 2012, January 2013
- Final decision: Approve ActewAGL, Energex and Ergon Energy's feed in tariff pass through applications, January 2013
- Final decision: Approve Victorian electricity network tariffs for 2013, December 2013

- Decision: Approve 2011 Demand management incentive scheme expenditure for Victorian electricity distribution network service providers; CitiPower, Jemena Electricity Networks and SP AusNet, December 2012
- Decision: Forecasts for the take-up of flexible tariffs in pricing proposals from CitiPower, Powercor, SP AusNet and United Energy (VIC) for 2013 not reasonable, November 2012
- Draft decision: Proposed charges and terms and conditions for advanced metering infrastructure (AMI) remote services (VIC), October 2012
- Decision: Approve 2013 revised Advanced Metering Infrastructure (AMI) or smart meter charges for CitiPower, Powercor, Jemena Electricity Networks, SP AusNet and United Energy, October 2102
- Decision: Approve SP AusNet's Victorian Bushfire Royal Commission cost pass through application, October 2012
- Decision: Approve SA Power Networks amended Cost allocation method, October 2012
- Decision: Preliminary view on amendments to SP AusNet AMI 2012–15 final determination in accordance with orders of the Australian Competition Tribunal, October 2012
- Decision: Vary electricity network charges and amend 2011–15 determinations for CitiPower, Powercor, Jemena Electricity Networks, SP AusNet and United Energy (VIC) according to decisions by the Australian Competition Tribunal, October 2012
- Draft decision: Proposal to apply transmission pricing (chapter 6A of the NER) to ActewAGL's dual function assets, September 2012
- Final decision: CitiPower and Powercor vegetation management opex step change—Regulatory control period 2011–15, September 2012
- Draft decision: SP AusNet's insurance pass through event, August 2012
- Draft decision: CitiPower and Powercor vegetation management opex step change—Regulatory control period 2011–15, August 2012
- Decision: Approve 2010–11 Demand management incentive allowance expenditure for ActewAGL (ACT), Ausgrid (NSW), Endeavour Energy (NSW), Essential Energy (NSW) and Ergon Energy (QLD), July 2012

Gas transmission and distribution decisions

- Decision: Approve 2013–14 tariff variations and cost pass through proposals for non-Victorian gas distribution network service providers, May 2013
- Final decision: Price review gas—distribution SP AusNet, Envestra and Multinet and gas transmission; APA GasNet (VIC), March 2013
- Draft decision: Not approve access arrangement proposals including network charges for Multinet Gas Pty Ltd, Envestra (VIC) Limited, Envestra (Albury) Limited Albury and SPI Networks (Gas) Pty Ltd's (SP AusNet) (distribution) and APA GasNet Australia (Operations) Pty Ltd's (transmission) 2013–17, September 2012
- Final decision: Access arrangement for the Roma to Brisbane gas transmission pipeline (QLD) for the period 1 September 2012 to 30 June 2017, August 2012
- Final decision: Exempting Meridian SeamGas Joint Venture and WestSide Corporation Limited (WestSide) from ring fencing obligations, July 2012
- Decision: Approve proposed 2012–13 tariff variations for APT Allgas (Qld) gas distribution network Dawson Valley gas transmission network, July 2012
- Decision: Approve and cost pass through proposals for gas distribution pipelines of Envestra (SA), Envestra (Qld) and APT Allgas (Qld), July 2012

Retail markets decisions

- Decision: Granted WINenergy Pty Ltd electricity retailer authorisation, June 2013
- Decision: Granted Infigen Energy Holdings Pty Ltd granted electricity retailer authorisation, March 2013
- Decision: Granted ERM Power Retail Pty Ltd for gas retailer authorisation, December 2012
- Decision: Granted EDL Retail Pty Ltd for electricity retailer authorisation, August 2012
- Decision: Granted Metered Energy Holdings Pty Ltd (MEH) electricity and gas retailer authorisation, July 2012

Reports

- Better Regulation update newsletter, March, April, May and June 2013
- Better Regulation policy note, May 2013
- Electricity price above \$5000/MWh report—6 March 2013, May 2013
- Quarterly Compliance Report: National electricity and gas laws—January—March 2013, April 2013
- Electricity price above \$5000/MWh report—29 January 2013, April 2013
- Retail energy market update—Performance report October—December 2012, March 2013
- Retail energy market update—Compliance report July—December 2012, March 2013
- Retail energy market update—Consumer issues July—December 2012, March 2013
- Performance Report—Victorian gas distribution business 2009–2011, March 2013
- Quarterly Compliance Report: National electricity and gas laws—October—December 2013, February 2013
- Better Regulation update newsletter and calendar, February 2013
- *State of the energy market* report, December 2012
- Report on the impact of congestion on bidding and inter-regional trade in the National Energy Market, December 2012
- Significant gas price report—August 2012, November 2012
- Electricity price above \$5000/MWh report—29 November 2012, November 2012
- Significant gas price report—July 2012, October 2012
- Customer consultation paper—Victorian gas access arrangement review, October 2012
- Significant gas price report—June 2012, August 2012
- Quarterly Compliance Report: National electricity and gas laws—April—June 2012, July 2012

Guidelines and guideline consultation

- Consultation: Draft Regulatory Investment Test—Distribution and application guidelines, June 2013
- Consultation: Better Regulation Program—Rate of return guideline, May 2013
- Consultation: Better Regulation Program—Stakeholder forum expenditure incentives and expenditure forecast assessments guidelines, April 2013
- Consultation: Better Regulation Program—Shared asset guideline, April 2013
- Consultation: Better Regulation Program—Stakeholder forum Power of choice, April 2013
- Consultation: Better Regulation Program—Stakeholder forum Confidentiality guideline, April 2013
- Consultation: Better Regulation Program—Demand management and embedded generation connection incentive scheme (DMEGCIS) information paper, March 2013
- Consultation: Better Regulation Program—Expenditure incentives guideline issues paper, March 2013
- Consultation: Better Regulation Program—Confidentiality guideline issues paper, March 2013
- Consultation: Formulae to apply to direct control services in NSW and the ACT, February 2013
- Consultation: Expressions of interest called for Consumer Challenge Panel, February 2013

- Consultation: Draft network service provider registration exemption guideline, January 2013
- Consultation: Expressions of interest called for Consumer Reference Group, January 2013
- Consultation: Regulatory Investment Test for Distribution (RIT-D) and application guidelines Issues paper, January 2013
- Guideline: Gas STTM significant price variations reporting triggers, December 2013
- Consultation: Better Regulation Program—Rate of Return guidelines issues paper, December 2012
- Consultation: Better Regulation Program—Expenditure forecast assessment guidelines issues paper, December 2012
- Consultation: Better Regulation Program—Stakeholder Forum, December 2012
- Consultation: Better Regulation Program—Issues paper, December 2012
- Consultation: Better Regulation Program—Program launch, November 2012
- Consultation: Draft exempt selling guideline, November 2012
- Consultation: Short term trading market Significant price variation reporting triggers—Issues paper, November 2012
- Compliance Bulletin: Price taker bids and changes in distribution network linepack, October 2012
- Consultation: Electricity distribution ring-fencing guidelines—Position paper, September 2012



Appendix 4

PORTFOLIO BUDGET STATEMENT DELIVERABLES AND KEY PERFORMANCE INDICATORS

This appendix lists the deliverables and key performance indicators in the *Portfolio Budget Statement: Treasury Portfolio budget papers* that are of most relevance to the AER. Many of the deliverables and key performance indicators are closely aligned with those listed in part 3 of this report.

Deliverables

- reasonable access terms and conditions (including prices) determined for nationally significant infrastructure services in a timely and transparent manner after appropriate consultation with stakeholders
- industry-specific laws (technical, pro-competitive, consumer protection) monitored and enforced in a transparent and consistent way
- prices and quality of goods and services monitored and reported on to provide relevant information to the community about the effects of market conditions
- relevant information disseminated to assist stakeholders in understanding the regulatory frameworks and the structure and operation of infrastructure markets so that they can more effectively engage in the regulatory process
- timely advice provided to governments and policy agencies on how efficient regulatory outcomes and competitive, well-functioning markets can be achieved
- enhanced use of data analysis and intelligence to inform our regulatory approaches and interventions
- collaboration and partnerships with international and domestic regulators and stakeholders.

Key Performance Indicators

- websites that are accessible and a source of relevant and up-to-date information;
- make regulatory determinations within statutory timeframes
- make access undertaking decisions and access determinations within statutory timeframes
- publish weekly electricity and gas reports and wholesale market high-price event reports in accordance with statutory timelines; publish *State of the energy market* report
- timely and accessible regulatory reports, determinations, and issues papers
- assistance to parliamentary inquiries and government agencies to develop policies and processes.

