

Mr Warwick Anderson  
General Manager Networks Finance and Reporting  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601

6 July 2018

Re – CRG-ENA engagement

Dear Mr Anderson

The Consumer Reference Group (CRG) representing Australian energy consumers and the ENA representing energy network businesses have engaged in a dialogue as part of the RoR guideline review process.

The engagement preceded the submission by each of those parties in response to the AER's evidence sessions, discussion papers and transcripts by the required closing date of 4th May 2018.

Given the resources which have been allocated to the engagement I believe it is appropriate to provide a summary of why the engagement took place, what it was intended to deliver, the process which was followed, the outcomes which were achieved, the learnings from the engagement from the CRG's perspective, and a view on the merits or otherwise of continuing the engagement.

#### *Initiation*

The CRG/ENA engagement was not part of the formal RoR guideline review process and is not part of the CRG's formal role, which is "is to provide direct and ongoing feedback to the AER during guideline development, and to facilitate broader consumer participation and engagement". Following a presentation by the ENA to the CRG meeting in January 2018 it was however agreed that there would be merit in progressing such an engagement, noting that the initial high level positions of each of the representative groups (CRG representing consumers and ENA representing network owners and operators) on all issues were unlikely to be reconciled in the limited time preceding the May date for submissions.

Further, any changes to the RoR guideline will be determined by the AER, not by way of negotiation between the CRG and the ENA, therefore there was no onus on the parties to produce a negotiated outcome.

The CRG and ENA determined that the primary objective of their engagement would be to "directly engage on the Rate of Return Review process with a view to supporting a guideline that is capable of being accepted by all stakeholders" and that the achievement of the NEO and the NGO is facilitated by the alignment of the interests of providers and consumers - consumers want to pay no more than is necessary for the reliability and quality they require, and providers need to receive returns commensurate with risk so that necessary investment occurs.

The AER established a “definition of success” for the engagement as follows:

“We consider the CRG/ENA engagement process will allow the CRG & ENA to share their unique information and perspective to facilitate a shared understanding of the issues. This shared understanding can help them identify areas where they can and cannot find common ground. We see this engagement process as contributing to an outcome that is capable of acceptance by all stakeholders. There are several outcomes from a successful CRG & ENA engagement process, these include:

1. *Explore avenues for finding common ground*

We would like to see the CRG and ENA explore whether common ground can be found on some issues in the guideline review process. Where common positions can be found, this will be put before AER decision makers.

2. *Understand differences*

On the issues where common ground cannot be found, we would like to see the CRG and ENA engagement process enable them to better understand their differing points of view. This should be reflected in stronger submissions from both parties.

3. *Build a relationship*

We would like to see the CRG & ENA build a relationship, which can be leveraged by both parties and the AER in ongoing work”.

#### *Process*

The CRG/ENA engagement has been progressed via a series of regular (average fortnightly), face to face meetings involving representative teams from each group, co-chaired by the Chairman of the CRG (John Devereaux) and the Chairman of the ENA’s Rate of Return working group (Craig De Laine), as a joint engagement group.

A key focus for each of those meetings has been a list of key issues and identification of the position of each of the parties as to the significance of the issues, their priority, and any changes which the guideline review should consider.

Information sharing about each of the issues and how the respective positions were arrived at has been of great value.

#### *Outcomes*

The CRG/ENA joint engagement group has, in addition to the value added as a result of information sharing:

- Put forward to the AER an agreed position in support of the AER’s proposal for a change to the averaging period for the risk free rate, that is:

....to continue to allow the regulated businesses to propose the timing of the averaging period but allow a period from 20 days up to 60 business days to be nominated by the business as long as it:

- is nominated ahead of time
- closes as close as practically possible to the start of the regulatory period;

- Developed an agreed shared principle for transmission to AER on behalf of the co-Chairs outlining shared expectations of the AER concerning transparency in its exercise of discretion, sources of data and methodologies applied when using data;
- Developed joint CRG/AER positions on AER discussion paper questions to be considered by the Expert Evidence sessions; and
- Initiated a joint project to provide a common basis for assessing the impacts on regulated asset bases (RABs) of regulatory rates of return since 2013.

Further, the ENA's submission – *“Response to Discussion Papers and Concurrent Expert Evidence Sessions 4 May 2018, Attachment A – Stakeholder feedback summary”*, draws on the ENA's engagement with the CRG to outline key themes and perspectives on the RoR proposed by consumers, and articulates the ENA's position and response. The ENA indicates that it is in agreement with many of the matters raised by consumers and has initiated actions to take up many other matters raised by consumers.

### *Learnings*

Key learnings from the engagement include, but are not limited to:

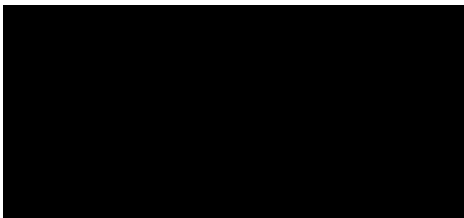
- The value of high level, face to face engagement to address matters which are of strategic significance, noting the raft of engagement activities which are happening simultaneously at jurisdictional and individual business level;
- The benefits of sharing information and developing a shared understanding of:
  - Why differences exist in relation to key issues;
  - What can be done to reconcile those differences;
  - Where there are valid reasons for different perspectives and conclusions; and
- Developing effective processes for working together to provide the best opportunity to achieve shared objectives.

### *Merits of continuing the engagement*

The CRG and the ENA both believe there are matters worthy of consideration beyond the scope of the current incremental RoR guideline review that should be considered immediately following this review, to inform the approach to the next guideline review. Further, both parties see considerable merit in ongoing engagement on other strategic issues beyond rate of return considerations.

Should you have any questions in relation to the engagement, please do not hesitate to contact me.

Yours sincerely



John Devereaux

Chairman, Consumer Reference Group (CRG)