

STATEMENT OF EXPECTATIONS — THE AUSTRALIAN ENERGY REGULATOR

This Statement outlines the Government's expectations about the role and responsibilities of the Australian Energy Regulator (AER), its relationship with the Government, issues of transparency and accountability and operational matters. It forms part of the Government's commitment to good corporate governance of regulatory bodies and reducing the regulatory burden on business and the community.

The AER enforces the laws for the National Electricity Market (NEM), selected gas markets, and the retail energy market. The AER is also responsible for setting the prices for using energy networks. The Government recognises that the AER is one of three institutions established by the Council of Australian Governments (COAG) to govern Australian energy markets, alongside the Australian Energy Market Commission and the Australian Energy Market Operator. States and Territories have conferred some powers to the AER under these arrangements. Importantly the arrangements include oversight by the COAG Standing Council on Energy and Resources (SCER), which has responsibility for the national energy policy framework, governance and institutional arrangements, and the legislative and regulatory framework within which the markets operate and natural monopolies are regulated.

It is imperative that the AER act independently and objectively in performing its functions and exercising its powers as set out in Part IIIAA of the *Competition and Consumer Act 2010* (CCA), the *Australian Energy Market Agreement 2004* and in the national energy laws and rules. Nevertheless, the Government expects that the AER will take into account the Australian Government's broad policy framework, including its deregulation agenda, in performing its role and meeting its responsibilities.

THE GOVERNMENT'S DEREGULATION AGENDA

The Government is committed to reducing red tape and compliance costs for business and the community as a critical step towards improving Australia's productivity.

The Government is overhauling the process for creating, implementing and reviewing new regulations. This includes a process within Government whereby the costs and benefits of additional regulation are carefully balanced, and the costs of new regulations are offset.

The Government expects that the AER will look for opportunities to reduce compliance costs for business and the community and contribute to the Government's \$1 billion red and green tape reduction target.

The Government also expects that the AER will comply with the Government's enhanced Regulatory Impact Analysis requirements for all regulatory proposals, including considering the impacts of regulation on business and the community and costing proposals before they are introduced using the Regulatory Burden Measurement framework.

The Government expects that the AER will act in accordance with regulatory best practice in its decision-making, policies, processes and communication practices to maximise efficiency, effectiveness and transparency, and minimise compliance costs. The AER should regularly review its policies and procedures to identify improvements to achieve these goals.

The Government's preference is for principles-based regulation that identifies the outcomes that are desired, rather than prescribing how to achieve those outcomes. An outcomes-based approach is more likely to accommodate change within the economy, allow for innovation and enterprise and reduce compliance costs by allowing regulated entities to determine the best way of meeting regulatory objectives.

The Government also considers that regulators should adopt a risk-based approach to compliance obligations, engagement and enforcement, allowing for proportionate approaches suited to the size, nature, complexity and risk of regulated entities. This allows regulators to achieve their objectives more efficiently

and reduce the overall regulatory burden, particularly for small businesses. This approach also recognises that it is not possible or efficient to eliminate all risks and that trade-offs in risk reductions are necessary.

The Government will provide the AER with further detail about a whole-of-government risk management framework and expectations for the AER's performance against specific performance indicators in the second half of 2014.

RELATIONSHIP WITH THE GOVERNMENT

Treasury's key role is to support and advise me and other Treasury Ministers in our responsibilities by being the principal source of advice on a wide range of issues, including policy development and maintenance, and the performance of the regulatory system. To fulfil this role, Treasury and the AER maintain a close relationship.

The Minister for Industry has portfolio responsibility for energy policy and national energy markets, and chairs SCER. He is supported and advised by the Department of Industry. Treasury and the Department of Industry take into account the views and experience of the AER when advising the Australian Government on the implications of policy initiatives on the energy regulatory framework.

The Government expects that the AER will work with Treasury, the Department of Industry, SCER and the Australian Energy Market Commission, to identify possible improvements to the energy regulatory framework.

TRANSPARENCY AND ACCOUNTABILITY

Under the COAG governance arrangements for energy markets, the AER is established under the CCA as an independent regulator for the national energy market framework. Nevertheless, the AER operates as part of the Australian Government and is accountable to the Commonwealth Parliament, and ultimately to the public, through the Treasury Ministers, the Parliamentary Committee process and the tabling of its annual report.

The Government expects the AER to have an open and consultative relationship with the entities that the AER regulates. It is important that stakeholders are encouraged to communicate considered and candid views to the AER, in order to enhance the regulatory framework and outcomes, and minimise compliance costs.

SCER's Statement of Expectations to the AER also includes transparency and accountability measures associated with the AER's performance of its role in governance of energy markets in accordance with Australian energy market regulation.

OPERATIONAL ISSUES

The AER is an independent agency consisting of one Commonwealth AER member and two State/Territory AER members in accordance with the CCA.

The AER is assisted by staff employed by the Australian Competition and Consumer Commission under the *Public Service Act 1999*. Further details on staffing and financial management are included in the separate Statement of Expectations issued to the Australian Competition and Consumer Commission.

CONCLUSION

The Government's vision is for the AER to be a high performing and consultative agency that administers a principles-based regulatory framework in a way that promotes the long term interests of consumers and minimises compliance costs.