

Document tendered by
Mr. Adam Searle
Received by
Alex Stedman
Date: 18 / 06 / 2018
Resolved to publish Yes / No



AUSTRALIAN ENERGY
REGULATOR

Level 17, Casselden
2 Lonsdale Street
Melbourne Vic 3000
GPO Box 520
Melbourne Vic 3001
tel: (03) 9290 1800
fax: (03) 9663 3699
www.accc.gov.au

Our Ref: D18-70559
Your Ref:
Contact Officer: Sebastian Roberts
Contact Phone: (03) 9290 1895

22 May 2018

The Hon. Adam Searle MLC
Leader of the Opposition in the Legislative Council
Shadow Minister for Industry, Resources and Energy
Shadow Minister for Industrial Relations
Level 11, NSW Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Searle

Thank you for your letter of 10 May 2018 which sought clarification on Mr Anderson's evidence and letter of 13 December 2017 to the Legislative Council Select Committee on Electricity Supply, Demand and Prices in New South Wales' inquiry into electricity prices.

You asked about the process by which the revenues received by Essential Energy under its price undertakings for the 2014-19 regulatory period above those provided for in the AER's 2015 decision would be returned customers. You also sought advice on whether Ausgrid and Endeavour Energy have accumulated additional revenues under their respective price undertakings.

The AER is still in the process of remaking its 2015 decisions for NSW electricity distribution businesses, including Essential Energy.

The AER's 2015 final decision for Essential Energy reduced its revenue recovery proposal by \$1,719.6 million (\$, nominal). In response, Essential Energy sought limited merits review of the AER's decision by the Australian Competition Tribunal (Tribunal). The Tribunal directed that the AER's decision be remade, specifically in relation to the operating expenditure and the return on debt forecasts. The elements in dispute were worth \$737 million and \$277 million, respectively. The Tribunal's decision to set aside the AER's return on debt and operating expenditure decisions were subsequently upheld by the Full Federal Court (the Court).

While these legal processes were underway there was considerable uncertainty about the effect of the Tribunal's decision on pricing and non-price related matters. The AER accepted enforceable price undertakings given by the distributors under section 59A of the National Electricity Law (NEL) that set out how network revenues and tariffs will be set until the AER remakes its 2014-19 decisions. The aim of the undertakings was to provide certainty and transparency to consumers, retailers and distributors while the legal processes were heard and the resulting AER 2015 decisions are remade. Last week the AER published the approved network tariffs for 2018/19 in accordance with these enforceable undertakings.

I note that the \$98m over-recovery referred to in your letter reflects the gap between what Essential Energy had recovered as at December 2017 under its enforceable price undertakings and the revenue allowance provided for in the AER's 2015 final decision. As noted in our previous correspondence, this additional revenue arises because of the difference between actual and forecast consumption in the current regulatory period.

The amount that Essential Energy is entitled to recover from consumers for the 2014-19 regulatory period will ultimately be determined once the AER remakes its 2015 decision. This remittal decision will be made in accordance with the NEL and the Tribunal and Court's directions.

In March 2018, the AER issued a draft remittal decision for Essential Energy. The draft decision is to allow Essential Energy to recover total revenues of \$5102.9 million (\$, nominal) from consumers over the 2014-19 regulatory period. This is \$100 million above the AER's 2015 final decision. Any amounts recovered above that allowed in the final remittal decision will be returned to customers in the forthcoming regulatory period.

The draft remittal decision accepts Essential Energy's proposal. Energy Consumers Australia, the Public Interest Advocacy Centre, the Energy Users Association of Australia and the AER's Consumer Challenge Panel all support the proposal.

The AER's draft remittal decision was to accept Essential Energy's proposal because:

- the overall revenue proposal is broadly consistent (within 2 per cent) with the revenue allowance set out in the AER's 2015 final decision and is consistent with the AER's original forecasts of operational expenditure and the cost of debt
- it is supported by key consumer groups following extensive consultation undertaken by Essential Energy
- it will promote price certainty and stability for consumers.

The AER expects to issue its final remittal decision within the next couple of weeks.

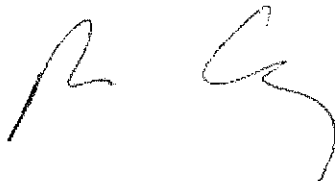
Ausgrid for Endeavour Energy have also recovered more revenue under their price undertakings than what was permitted in the AER's 2015 decisions. As of December 2017 differences are \$337.1m for Endeavour Energy and \$806.6 million for Ausgrid. The AER will remake its 2015 determinations for Endeavour Energy and Ausgrid in coming months. Any differences between the remade decision and the amount recovered through the undertakings will be returned to consumers.

In April 2018, Endeavour Energy submitted a proposal for the 2015 remittal which would result in approximately \$227m returned to customers. Endeavour Energy's proposal and consumer groups' feedback are published on our website. The AER considering Endeavour Energy's proposal, as well as consumer groups' feedback, and will publish a draft remittal decision in mid-2018.

Ausgrid has yet to file its proposal for the 2015 remittal process. The company is currently engaging with the Consumer Challenge Panel, ECA and PIAC.

Should you require further information or if you would like a briefing on this or any other matter pertaining to the AER, please contact Sebastian Roberts, General Manager, Network Expenditure.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Conboy', with a stylized flourish at the end.

Paula Conboy
Chair

Sent by email on: 22.05.2018
cc the Hon Don Harwin MP, NSW Minister for Energy & Utilities