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COAG Energy Council Secretariat
Department of the Environment and Energy

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Rule changes to support the binding rate of return instrument

Energy Consumers Australia appreciates the opportunity to comment on the *National Gas (Binding Rate of Return Instrument) Amendment Rule 2018¹* and the *National Electricity (Binding Rate of Return Instrument) Amendment Rule 2018²* (the Proposed Rules).

The legislative package to create a binding rate of return instrument was introduced to the South Australian Parliament on 2 August 2018 and is awaiting debate and passage. The Proposed Rules remove or amend rules that will be outdated after the passage of that legislation.

We communicated our support for the legislation to the Senior Committee of Officials in a letter on 19 April 2018.³ In that letter we noted that at a time when households and small businesses are facing significant energy affordability challenges, it is critical that they do not pay a dollar more than is necessary for their network services.

We noted that the approach in the Draft Bill and Bulletin gives the Australian Energy Regulator (AER) broad discretion as to how the instrument is developed. We endorse this approach, which gives the regulator the scope to arrive at a decision as a whole that best supports the long-term interests of energy consumers. The Proposed Rules give effect to this broad discretion being provided to the AER by deleting the prescriptions currently found in the rules.

We note that in the *Retail Electricity Prices Inquiry* report the Australian Competition and Consumer Commission recommended:

17. *The AEMC should:*

- *as part of its annual network regulatory framework review, examine areas which can reduce the complexity of the existing framework and the time needed to implement changes*
- *in amending any rules, be required to minimise additional complexity in the overall rules framework.*

18. *To further assist with reducing the complexity of the rules and improving the timely adaptability of the framework, consideration should be given by the AEMC as part of its ongoing reviews of the NER to areas where the NER can be amended to make greater use of AER guidelines, rather than the codification of detailed regulatory assessment methodologies and processes within the NER.*

The approach being adopted for the Rate of Return is consistent with these recommendations. We believe the Proposed Rules effectively address the requirements for change arising from the legislative package.

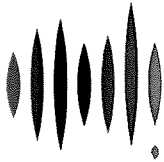
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<http://www.coagenergycouncil.gov.au/sites/prod.energycouncil/files/publications/documents/NationalGasRulesAmendment%20Final.pdf>

2

<http://www.coagenergycouncil.gov.au/sites/prod.energycouncil/files/publications/documents/NationalElectricityRulesAmendmentFinal.pdf>

³ <https://energyconsumersaustralia.com.au/wp-content/uploads/Proposed-Statutes-Amendment-to-National-Energy-Laws-Submission.pdf>



The 2018 Review of the Rate of Return Guideline (the 2018 Guideline) has highlighted limitations with the historic approach to estimating the allowed rate of return. There were few listed companies when economic regulation of networks was introduced and consequently a conservative value of the equity beta (one) was chosen. The available market data has progressively revealed that the equity beta should be lower, with the draft guideline setting a value of 0.6 (though we believe 0.5 is better supported by the evidence). However, we are entering a period of few listed network businesses to estimate.

In addition, the limitations of the Capital Asset Pricing Model in general are becoming more apparent.

Consequently, in our submissions on the 2018 Guideline we have argued that the AER should commence a full review of the methodology for establishing the allowed rate of return early in 2019. While this is a decision for the AER we are including it in this submission as a reminder that the move to a binding rate of return will not immediately free resources for non-rate-of return-matters at the AER.

In conclusion, Energy Consumers Australia is pleased to support the Proposed Rules as drafted. Should you require any further information please contact our Senior Economist, David Havyatt, on 02 9220 5508 or at david.havyatt@energyconsumersaustralia.com.au.

Yours sincerely,

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