

28 June 2018

COAG Energy Council Secretariat  
GPO Box 787  
Canberra ACT 2601  
**Email:** [energycouncil@environment.gov.au](mailto:energycouncil@environment.gov.au)

Dear Ms/Mr Secretariat,

### **AER Powers and Civil Penalty Regime Consultation Paper**

SA Power Networks welcomes the opportunity to provide a submission in response to the AER Powers and Civil Penalty Regime Consultation Paper, dated June 2018.

The COAG Energy Council published proposed amendments to existing AER powers and the civil penalties regime, inviting submissions from interested stakeholders.

SA Power Networks sets out the response to one consultation question below:

**1. Do you agree that the AER should be able to use its new power, to compel individuals to appear before it and give evidence, in relation to any of its functions or powers?**

We do not agree that the AER's new power should extend to 'any of its functions or powers'. The power should be consistent with the existing model, applicable to the ACCC which is limited to enforcement matters. This would enable the AER to collect verbal evidence on oath or affirmation for the purpose of investigating a breach of the energy law or rules.

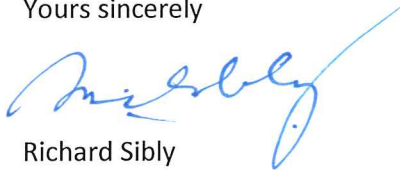
The AER already has significant power in its existing information gathering powers to obtain information and documents, where "the AER has reason to believe that a person is capable of providing information or producing a document that the AER requires for the performance or exercise of a function or power conferred on it" under the national energy laws and rules. This provides sufficient power to the AER where, on reasonable grounds, they require access to information.

As stated in the Consultation Paper, the *2013 Review of Enforcement regimes under the National Energy Laws (Review)* recommended that the AER should be given a power to compel individuals to appear before it to give evidence. The review also argued that this would improve the AER's ability to investigate breaches. Given the Review explicitly states the reason for the recommended change, being 'to investigate breaches', we believe it is reasonable for

the new power to align with that view, and not extend more broadly to a purpose not identified by the Review.

If you have any queries or require further information, please contact Ms Samantha Hicks on 08 8404 4194.

Yours sincerely



Richard Sibly  
Head of Regulation

