

BULLETIN

Limited merits review; Introduction of amendments to the National Electricity Law and National Gas Law to the South Australian Parliament

BULLETIN EIGHT/ 27 SEPTEMBER 2013

AMENDMENTS TO THE NATIONAL ELECTRICITY LAW AND NATIONAL GAS LAW RELATED TO THE LIMITED MERITS REVIEW OF ELECTRICITY AND GAS DECISIONS HAVE BEEN INTRODUCED INTO SOUTH AUSTRALIA'S PARLIAMENT.

On 26 September 2013 amendments to the National Electricity Law and National Gas Law were introduced into South Australia's Parliament. These amendments are to give effect to the Standing Council on Energy and Resources' (SCER) agreed policy position on limited merits review.

Specifically, these changes will:

- a. clearly link the intent of the original decision and review processes, to ensure a common focus on outcomes that are in the long term interests of consumers - consistent with the National Electricity Objective (NEO) and the National Gas Objective (NGO) and the revenue and pricing principles;
- b. reform the manner in which the Australian Energy Regulator performs its economic regulatory functions or powers to provide greater transparency of its determination process;
- c. raise the threshold for leave to appeal by adding a requirement for the applicant to establish a prima facie case that a materially preferable decision exists, with regard to the NEO or the NGO;
- d. require the Australian Competition Tribunal (the Tribunal) to routinely consult relevant users and consumers and to consider interlinked matters;
- e. clarify the matters that may be raised by parties to a review, including allowing raising of inter-linked matters to the extent they are relevant to whether a materially preferable decision exists;
- f. remove the risk of prohibitively high costs being awarded against users and consumers in a review;
- g. prevent costs associated with reviews being passed on through into regulated revenues; and
- h. require a review of the performance of the Tribunal under the reformed regime to commence in 2016 to assess the effective of the above changes on the way limited merits reviews are performed.

These reforms are a key component of the energy market reform agenda that is aimed at ensuring consumers pay no more than necessary for a reliable and secure supply of energy.

Further details may be found at:

SCER's policy:

<http://www.scer.gov.au/files/2013/09/LMR-Decision-RIS-June-2013.pdf>

SCER's Statement of Policy Intent:

<https://scer.govspace.gov.au/files/2012/12/LMR-Statement-of-Policy-Intent-December-2012.pdf>