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Friday, July 25, 2025

The Senate Committee,
Environment and Communications Legislation Committee,
Parliament House
Canberra, ACT 2600

Dear Committee Members,

Subject: Submission on the Competition and Consumer Amendment (Australian Energy Regulator Separation) Bill 2025

I am writing to express significant concerns regarding the Competition and Consumer Amendment (Australian Energy Regulator Separation) Bill 2025, which proposes to separate the Australian Energy Regulator (AER) from the Australian Competition and Consumer Commission (ACCC) to establish it as an independent statutory agency. While the bill is presented as a reform to enhance energy regulation and consumer protections, a critical examination reveals potential risks that may undermine the interests of ordinary Australians. My submission urges the Committee to scrutinise the bill's underlying motives, long-term implications, and susceptibility to corporate and political influence, which could exacerbate existing challenges in Australia's energy market.

Concerns Regarding the Bill's Implications

- **Risk of Regulatory Capture and Corporate Influence**

The bill's creation of a standalone AER, with a centralised AER Chair as the accountable authority (Section 44AAC, Page 9), raises concerns about vulnerability to industry influence. Energy markets in Australia have a history of regulatory capture, where corporate interests shape policy to prioritise profits over consumers. The provisions allowing the AER to engage external consultants and partner with state/territory governments (Sections 44AAC and 44AAACB, Page 10) create multiple entry points for energy companies to exert influence, potentially through industry-aligned consultants or state-based interests tied to fossil fuel industries. This risks perpetuating high energy prices and weak consumer protections, particularly in states with strong corporate lobbies. I urge the Committee to investigate safeguards to ensure the AER's independence from such influences.

- **Increased Costs and Taxpayer Burden**

Establishing the AER as a separate entity will likely incur significant administrative costs, including new offices, staffing, and legal frameworks, with no clear funding mechanism outlined in the bill. These costs will almost certainly fall on taxpayers, diverting public funds from critical services while energy companies face no direct financial burden.

Australians already grappling with cost-of-living pressures, including skyrocketing energy bills, cannot afford to subsidise a new bureaucracy that may deliver marginal benefits at best. The Committee should demand a transparent cost-benefit analysis to justify this expenditure and ensure it does not disproportionately burden households.

- **Potential for Transitional Disruptions and Regulatory Gaps**

The bill's transitional provisions (Pages 14–18) are vague and leave room for inefficiencies, such as delays in transferring staff or documents. During this period, energy companies could exploit regulatory gaps to implement price hikes or evade accountability. The reliance on existing ACCC frameworks, such as the Enterprise Agreement (Page 17), suggests the AER may inherit entrenched interests that resist meaningful reform. Furthermore, the Minister's broad powers to shape transitional rules (Page 18) could align the AER with political priorities rather than consumer needs. The Committee must ensure robust oversight to prevent disruptions that could lead to price spikes or service outages for Australians.

- **Illusion of Reform Without Substantive Change**

The bill's focus on procedural amendments, such as updating section numbers in the Competition and Consumer Act 2010 (Pages 9–12), overshadows the lack of concrete measures to address systemic issues like high energy costs and corporate monopolies. Australians have seen energy prices soar despite the AER's existing powers, and there is no evidence that independence will deliver meaningful relief. The bill risks being political theatre, offering the appearance of reform while preserving the status quo that benefits energy giants and bureaucrats. The Committee should press for specific, measurable outcomes to ensure the AER delivers tangible benefits, such as lower energy bills or improved service reliability.

- **Erosion of Consumer Power Through Fragmented Regulation**

By separating the AER from the ACCC, the bill narrows the regulator's scope, potentially weakening its ability to tackle cross-sector issues like price collusion or anti-competitive behaviour in energy markets (Sections 29–31, Page 12). The ACCC's broader mandate allowed it to challenge monopolies across multiple sectors, whereas a standalone AER may be easier for governments and corporations to marginalise. This could leave Australians with a less effective regulator, unable to drive systemic reforms like breaking up energy cartels or accelerating the transition to affordable renewables. The Committee should evaluate whether this separation undermines the AER's capacity to protect consumers effectively.

Recommendations

To address these concerns, I respectfully urge the Senate Committee to:

- **Strengthen Safeguards Against Regulatory Capture:** Implement strict conflict-of-interest rules and transparency measures for the AER's leadership and consultants to prevent industry influence.
- **Provide a Transparent Cost Assessment:** Require a detailed breakdown of the financial implications of establishing the AER as a standalone entity, ensuring taxpayers are not unduly burdened.
- **Ensure Robust Transitional Oversight:** Establish clear timelines and accountability mechanisms to minimise disruptions during the AER's transition and prevent exploitation by energy companies.
- **Demand Measurable Consumer Outcomes:** Amend the bill to include specific targets, such as reducing energy prices or improving service reliability, to hold the AER accountable to Australians.
- **Reassess the Separation's Impact on Consumer Power:** Evaluate whether a standalone AER will weaken regulatory clout compared to the ACCC's broader mandate, and consider alternative reforms to strengthen consumer protections.

Conclusion

While the Competition and Consumer Amendment (Australian Energy Regulator Separation) Bill 2025 is framed as a step toward better energy regulation, it risks serving corporate and political

interests over those of ordinary Australians. Without rigorous safeguards, transparent funding, and a focus on tangible outcomes, the bill may create a more expensive, less effective regulator that fails to address the pressing issues of high energy costs and unreliable services. I urge the Committee to approach this bill with skepticism, prioritising the needs of Australians struggling with cost-of-living pressures over bureaucratic or corporate agendas. Thank you for considering this submission, and I trust the Committee will thoroughly scrutinise the bill to ensure it serves the public interest.

Yours sincerely,

Caucus Cannon
