

# Dissenting Report from the Australian Greens

1.1 The committee heard compelling, consistent evidence about the depth of the regulatory and institutional failures of the National Electricity Market (NEM) and the inexcusable gouging of consumers. Yet the committee report recommends no substantial remedy to address these failures. While the Australian Greens do not oppose the recommendations, we dissent from the report on the basis that it represents a failure of political will at a time when reform is essential to facilitate innovation, bring down greenhouse gas emissions and reduce power bills for Australian households and businesses.

1.2 This report does nothing to face up to the energy revolution now overtaking traditional energy generation, transmission and distribution or to the challenges presented by addressing global warming or the opportunity to create jobs, new investment and deliver tremendous innovation through reform. The transmission and distribution systems are in a death spiral and battery technology makes business as usual untenable.

1.3 The outrage that committee members often expressed throughout the hearings when learning about how network companies have gouged the current system has not been converted into recommendations that would prevent its reoccurrence into the future. While the content of the majority report does clearly outline the problems and the case for change, much like the Abbott Government's review into the Renewable Energy Target, the recommendations go against the actual findings of the report.

1.4 After the Select Committee into Electricity Prices released its report and recommended significant changes to our network system in 2012, then Prime Minister Julia Gillard warned network companies to stop gouging their customers, and urged state governments through COAG to act or federal action would be taken by the end of 2012 to beef up the Australian Energy Regulator's powers.<sup>1</sup> She failed to act in spite of a clear statement of intent to do so.

1.5 This report now represents the second lost opportunity to confront the problems laid out before the Australian public as a record number of Australians are unable to pay their electricity bills.<sup>2</sup> Any claims by either the government or opposition to say they want to 'tackle cost-of-living issues head-on' following this report will be empty rhetoric.

---

1 Phillip Coorey and Anna Patty, 'Gillard threatens to use shock therapy on electricity prices', *Sydney Morning Herald*, 8 August 2012.

2 See recent reports by the NSW Independent Pricing and Regulatory Tribunal, Victoria's Essential Services Commission and the South Australian Council of Social Service.

1.6 When there is no courage for substantive action to be directed at network companies such as those in Queensland and NSW whose respective profit margins<sup>3</sup> of 47 per cent and 42 per cent are directly obtained from households and businesses, it is clear the pretence that the NEM is geared towards the interests of consumers is exposed. The NEM has been captured by political and/or powerful vested interests as lucrative revenue raising tax generator. If ever a tax needed axing, it's this one.

1.7 This is because State Governments of Labor or Liberal persuasion either want to maximise the value of network companies for future privatisation proceeds and/or deliberately use the complexity of the pricing determination process to implement clandestine taxation on its citizens. They argue that profits can be paid as dividends to pay for education, health et cetera, but in reality those profits are the proceeds of a regressive tax which impacts lower income households harder than anyone else.

1.8 The institutional arrangements of the AER and the AEMC were designed by the states for the states allowing them to derive revenue from their rule-making and pricing determinations. For example, the current Chair of the AEMC, Mr John Pierce was appointed directly from his position as the NSW Treasury Secretary. The financial benefits that have flowed to NSW since the design and inception of the NEM have been considerable.

1.9 While recommendation 14 of the report will go some way in addressing state influence over making rules and setting allowances that benefit themselves, it does not directly remove the conflicts of interests that are embedded throughout the current institutional arrangements.

1.10 The excessive profits of NSW and Queensland networks are not because of 'inefficiencies' or some other privatisation clarion call, it is because the current institutional structure lends itself to political (and subsequently bureaucratic) capture.

1.11 State-owned entities are treated by the AER as competitively neutral in a regulated monopoly. This enables them to claim commercial rates of borrowing when they enjoy lower interest rates commensurate with their state's credit rating. They also receive allowances for taxes that they do not pay. Consumers pay for these costs. This is wrong.

1.12 The significant source of revenue that state-owned networks provide to their state governments should not be determined within a web of regulatory complexity and concealed political influence. The ultimate responsibility for increased network costs that are passed on to consumers should lie with the State government that benefits from those funding decisions. Then the public will be able to decipher who is responsible for decision-making that affects their electricity bill.

---

3 Mr Bruce Mountain, *Submission 19*, p. 10.

---

## Recommendation 1

**1.13 NSW and Queensland network companies should not be privatised. However, publicly owned networks should be prevented from participating in the AER Pricing Determination processes. The costs that are ultimately passed on to households and businesses must be approved by the relevant State Minister.**

1.14 The recent excessive rise in fixed costs borne by electricity users during a period of declining aggregate electricity demand and increasing infrastructure investment presents some very serious challenges. These high costs have impacts both on social service policy and our economic competitiveness. Mr Dale Holliss of the Bundaberg Regional Irrigator's Group provided evidence that this problem had the potential to destroy the viability of entire communities that depend on irrigated agriculture,<sup>4</sup> which is fast being rendered uncompetitive by electricity costs as outlined by Mr Warren Males of the Australian Sugar Industry Alliance:

[Our current Network System] is failing electricity consumers and it is directly and adversely affecting the international competitiveness of the export-oriented Australian sugar industry. Electricity tariffs for irrigation use are up 96 per cent, compounded over seven years. Sugar prices over the same period—at least, I should say, over the last 18 months—have fallen by more than 50 per cent. So we have electricity prices up by almost 100 per cent and sugar prices down by 50 per cent. Since the framework was first introduced, electricity prices in Australia have been increasing at a faster rate than anywhere else in the developed world. This is a bizarre turn of events for the energy-rich Australian economy.<sup>5</sup>

1.15 The over-investment that has occurred in the previous five-year regulatory period to 2013 has built a class of future stranded assets whose write-downs will either be borne by network companies or electricity users, plus it represents massive opportunity costs. The \$44.7 billion<sup>6</sup> spent by network companies over those five years could have provided every Australian household and business with access to a world-class National Broadband Network.

1.16 For instance, the unique valuation treatment of network assets allows the net values to be indexed by the Consumer Price Index. This maintains the 'real' value of the assets despite evidence that their economic valuation is considerably below this, especially when the asset has reached the end of its useful life. It is households and businesses that pay for this perverse accounting allowance. Who designed this absurdity and why will we allow it to continue?

---

4 Mr Dale Holliss, Bundaberg Regional Irrigators Group, *Proof Committee Hansard*, 16 February 2015, pp. 37–38.

5 Mr Warren, Head, Economics, Canegrowers; and Chairman, Sugarcane Gene Technology Group, Australian Sugar Industry Alliance, *Proof Committee Hansard*, 16 February 2015, p. 26.

6 Sourced from the AER's regulatory information notices. \$29.9 billion was capital expenditure, \$14.8 billion was operational.

1.17 The evidence heard by the committee and the content of the majority report outlines that an extreme burden has been placed on everyone who receives an electricity bill and there is nothing that they can do to avoid these costs, except for leaving the grid entirely. Which people will do so as soon as batteries come down the cost curve.

1.18 Therefore, it is incumbent on law and policy makers to rectify the very serious problems from previous overinvestment by forcing a revaluation on the regulated asset base of network companies. State governments will have to decide whether to write down the asset base and transfer the debt to state debt to be serviced by all taxpayers or continue to gouge consumers for the state government's previous greed. Selling off is a worst case scenario as sweeteners will be required to seal the deal and that will lock in higher consumer prices and lock out the innovation that drawing a line under the mess and beginning from scratch would facilitate.

1.19 Corporations law requires that companies must recognise impaired assets by writing down their asset values when needed. If a network monopoly were to voluntarily reduce its asset values to reflect their economic worth, it would radically reduce its profitability and reduce electricity prices which would free up desperately needed income particularly for low-income households and businesses. Naturally networks will never do this voluntarily.

1.20 While there are very serious consequences with state entities forcing the revaluation of assets, it has become clear that this is the least, worst option available for the long-term interests of both network companies and Australian businesses and households. Although the Australian Greens fully appreciate the possibility of an increase in the cost of capital for network companies because of the perceived increase in risk, this amount will be insignificant in comparison to the savings that Australians will experience on their electricity bills as the previous overspend is rectified. Furthermore, the regulatory allowances have already compensated network businesses for this risk, and as noted, their actual profitability has far exceeded regulatory allowances.

1.21 Asset revaluations would also strengthen the longer-term position of network companies as assets that are vulnerable to both demand reduction and customers leaving the grid would be identified and rectified. This would not only give investors more confidence in the true state of the network's asset position but it would reduce the impact of the 'death spiral' on networks customer base as the solar and battery storage era erodes it.

## **Recommendation 2**

**1.22 That the Australian Energy Regulator be given the power to revalue the regulated asset base of network service providers.**

---

1.23 Australia's electricity system is currently undergoing a radical technological revolution. The era of centralised power being carried hundreds of kilometres to its customer is coming largely to a close. The rise of locally generated, stored and distributed energy is inevitable. Network companies need to adjust to this transformation. If they resist it, or do not change, their refusal to adapt will destroy their businesses.

1.24 As noted in the report, Australia's electricity demand will continue to decline. This means the existing financial incentives that encourage expansion of the regulated asset base are fundamentally flawed and will continue to exacerbate what is already a severe problem of creating unmanageable infrastructure spending distortions.

1.25 In order to reverse this train-wreck, new incentives have to be laid out for networks to provide innovative services that match the technological transformations occurring around them. Building more and more infrastructure is not a sustainable business model for networks into the future.

1.26 This technological transformation in energy systems is being driven by the absolute necessity of minimising the reach and depth of global warming. Our national electricity system, as the biggest national contributor to emissions has to be recalibrated to help achieve Australia's objectives at reducing pollution as well as creating economic opportunities from the innovation that has already proven to be so potent.

1.27 To create this new suite of rule-making that will foster innovation and reduced demand, the objects of the NEM legislation must be expanded to cover an environmental objective, namely reducing emissions. This objective would inform subsequent rule-making and financial incentives.

1.28 Regulatory and commercial arrangements need to be adapted to facilitate the development of decentralised energy systems. Tariff structures must be adopted that correctly charge for the development and use of networks so that distributed generation and storage and local demand response is properly valued. This would have huge financial benefits for households, industries such as sugar mills, large commercial buildings that stand ready to generate and trade their own electricity.

1.29 Fundamental redirection of what we want our grid to do will enable the integration of decentralised energy into the existing grid and offer a hope for network companies to operate profitably and innovatively into the future. Such changes are necessary to accommodate the inevitability of further rapid change in technologies, consumer behaviour and government policies to escalate our response to global warming.

**Recommendation 3**

**1.30 That the objectives in the National Electricity Market laws include an environmental objective that would require the National Electricity Market to facilitate achievement of the UNFCC Greenhouse Gas Emissions targets agreed to by Australia. A new object would inform rule making and co-ordinate Australia's efforts to reduce emissions in the electricity sector at the same time as guaranteeing a secure supply of electricity in an affordable way.**

1.31 Australia is unique globally in bifurcating the design and implementation of regulation in separate regulatory authorities. This impedes innovation and adaptation and has led to inertia, ossification, poor regulatory design and implementation. The disastrous outcomes in network service provider profits and costs bears testament to the flaws of this current arrangement.

1.32 In light of the Harper Review recommendation and the many reasons outlined in Chapter 7 of the report, the natural conclusion is for the AEMC and AER to be collapsed into a single organisation.

**Recommendation 4**

**1.33 In light of the recommendation made by the Competition Policy Review (Harper Review) regarding a single national access and pricing regulator, and in light of the committee's concerns about the current institutional arrangements the committee recommends that the Australian Energy Market Commission and the Australian Energy Regulator be collapsed into a single body.**

**Senator Christine Milne  
Senator for Tasmania  
Leader of the Australian Greens**

**Senator Larissa Waters  
Senator for Queensland**