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Federal Court dismisses majority of AER's appeal, upholds ACT decision to set aside 2014-19 Essential Energy determination

The Federal Court has today dismissed the majority of the Australian Energy Regulator's (AER) application for judicial review of last year's decision by the Australian Competition Tribunal (ACT) to set aside the AER's 2014-19 determination for electricity network provider, Essential Energy. The court has, however, upheld the AER's application for judicial review regarding imputation credits (Gamma).

Today's decision will likely result in the ACT directing the AER to re-make the operating cost, debt and any inter-related elements of its revenue determination for Essential Energy's 2014-19 regulatory period.

Chief Executive Officer, John Cleland, said Essential Energy respects the Court's decision and will work with the AER in finalising the 2014-19 determination.

"Our long-term objective has always been to transition to a more streamlined, cost-effective business model that continues to deliver a safe, reliable and efficient electricity network for our customers," John said.

"Essential Energy will continue to work collaboratively and cooperatively with the AER, our customers and other stakeholders to ensure the determination is re-made in the most efficient timeframe possible to provide clarity for our customers.

"We are critically aware of the potential impact this decision could have on regional and rural communities and will continue to work closely with stakeholders as we reform the business to keep downward pressure on real network charges for customers."

The Federal Court decision comes more than two years after the AER issued Essential Energy's 2014-19 regulatory determination on 30 April 2015, reducing operating expenditure by 30 per cent, revenue by 25 per cent and capital expenditure by seven per cent with retrospective effect from 1 July 2014.

Essential Energy appealed the AER's benchmarking methodology for operational expenditure and elements of the Weighted Average Cost of Capital (WACC) calculations.

After a merits review hearing in late 2015, the ACT set aside the AER's 2014-19 regulatory determinations on 26 February 2016. The AER subsequently applied to the Federal Court for a judicial review of the Tribunal's decision.

While Essential Energy is reviewing the implications of today's decision, it will not affect current network charges and is unlikely to have an impact in the remaining two years of the current 2014-19 regulatory period.

Essential Energy remains committed to delivering real network price reductions over time while continuing to improve business efficiency and productivity.

"We've been reforming the business in a sustainable way for several years while maintaining safety and reliability, with the objective of operating at best industry practice, achieving real reductions in network charges and providing a satisfactory return for our owners, and we will continue on that path," John Cleland said.

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Essential Energy is the operator of one of Australia's largest electricity networks spanning 95 per cent of New South Wales. Owned by the New South Wales Government, Essential Energy also provides water and sewerage services to customers in far western New South Wales.