

24 April 2015

Ms Christine McDonald
Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600



positive energy

Office of the
Chief Executive Officer

By email: ec.sen@aph.gov.au

Dear Secretary

**Senate Environment and Communications References Committee
Inquiry into the performance and management of electricity network
companies
Energex response to Senate Committee evidence of Ms. Cally Wilson**

I refer to your letter dated 15 April 2015.

Thank you for providing Energex with the opportunity to respond to the evidence of Ms Cally Wilson to the Senate Committee on 24 March 2015.

Please find attached Energex's response. The response is in two parts: an executive summary based on the broad themes of Ms. Wilson's evidence; and an accompanying detailed response to each individual allegation. If the Committee publishes Ms. Wilson's evidence, Energex requests that the Committee publish this letter and its attachments in full.

As outlined in my letter dated 17 April 2015, Ms Wilson, in her evidence, explicitly acknowledged that she was not involved in Energex's 2015-20 regulatory proposal to the AER. Further, Ms Wilson's experience and role within Energex would not have provided her with a reasonable basis to make the majority of her allegations.

In addition, the Committee, in its recent Interim Report of this Inquiry, categorises Ms. Wilson's allegations as "data manipulation". Energex is of the view that this classification is not borne out by the evidence before the Committee.

As outlined in my letter of 17 April 2015, Energex values the hard work and contribution that its employees both past and present make to ensuring that Energex is able to deliver a safe, efficient and reliable network for the benefit of its 1.4 million customers.

The Senate Privileges Resolution Procedure 1(12) sets out that "*where a witness gives evidence reflecting adversely on a person and the committee is not satisfied that that evidence is relevant to the committee's inquiry, the committee shall give consideration to expunging that evidence from the transcript of evidence, and to forbidding the publication of that evidence.*"

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In my view, the individual names of the employees are not relevant to the Committee's Inquiry and it is not necessary to name the employees in order to conduct a robust and transparent Inquiry. Energex requests the Committee expunge the names from the transcript (including the transcript already publicly released) and forbid the publication of the names. The publishing of the names of the employees is, in my view, outside the nature and the intent of the Inquiry and may unnecessarily prejudice the individuals named both professionally and personally.

Thank you for the opportunity to prepare a response to the allegations contained in the evidence.

Yours sincerely

Terry Effeney
Chief Executive Officer

Attach: Appendix1 – Executive Summary and Detailed response (including Attachments A, B and C)

Appendix 1 **Response to Allegations of Ms. Cally Wilson** **Executive Summary and Detailed Table**

Executive Summary

Ms. Wilson's allegations, and the Committee's questioning of Ms. Wilson, have three broad themes:

1. Energex invented a figure for its weighted average cost of capital (WACC) and Ms. Wilson was required to provide a non-credible "outlier" debt cost to support this invented figure which was used to manipulate prices for electricity consumers

The Committee has had the benefit of substantial evidence from the Australian Energy Regulator (**AER**), Australian Energy Market Commission (**AEMC**), Energex and other distributors in relation to how the WACC is determined by the AER. As this evidence demonstrates, it is not possible for Energex to manipulate the WACC – as it is independently determined by the AER. Energex rejects outright that it has manipulated data, presented to the AER, or otherwise.

Energex has already provided detailed evidence that Ms. Wilson had absolutely no involvement or influence in Energex's 2015-2020 regulatory proposal. This was confirmed by Ms. Wilson, when in her public evidence, she explicitly acknowledged that her work was not related to Energex's 2015-2020 regulatory proposal, nor was she part of the group involved in that work.

The work done by Ms. Wilson that is discussed in her evidence was only used for forecasting purposes and to provide context to Energex's shareholders about future revenue and profitability.

Any suggestion that Ms. Wilson's work somehow resulted in Energex manipulating the WACC for the 2015-2020 regulatory period (which has not yet been set by the AER) is simply not supported by the evidence provided to the Committee, the timeline of Ms. Wilson's employment with Energex, nor the National Electricity Rules and the AER's powers and obligations in respect of WACC.

2. Energex is an inefficient and bloated organisation

Ms. Wilson's role with Energex was as a Treasury Analyst. This role had no involvement in the human resources side of the business. As such, it would be difficult for a person in this role to reasonably assess the Energex human resource requirements to maintain a safe and reliable electricity network that meets our customers' expectations.

In 2012, Energex initiated a strategy that has seen its workforce reduce by more than 20 per cent since that time in line with reduced electricity demand and reduced capital works program. Our staffing levels and expenditure are also regularly externally benchmarked and assessed.

3. There are issues of corporate governance and compliance within Energex, and the need for more regular audits, including of capital expenditure.

Energex, its finances and its operations, are subject to a significant level of scrutiny and audit. Energex's statutory and regulatory accounts are subject to external audit each year. Energex also has an active internal audit program.

Energex capitalises expenditure in compliance with its Finance Policy Manual which complies with Australian Accounting Standards and cost attribution principles as outlined by the AER. No evidence of incorrect costings to capital has been found as part of the audits undertaken.

Ms. Wilson worked with Energex's treasury department and specifically claims that there was inadequate auditing of this function. In fact, the treasury department's key activities were subject to annual external audit during Ms. Wilson's employment at Energex, as well as there being a comprehensive internal audit undertaken by a senior internal auditor of Energex. Energex's investigations have not found any issue of substance that warranted further action or raised systemic issues which are a cause for concern.

Conclusion

At all times, Energex has taken Ms. Wilson's concerns seriously and investigated all allegations made, both during and after her employment. As set out above, Energex's investigations have not found any issue of substance that warranted further action or raised systemic issues which are a cause for concern. In particular, Ms. Wilson's allegations that no audits were undertaken of the Energex treasury department during her tenure are not correct.

Energex acknowledges that Ms. Wilson is entitled to her view and opinion. However, Ms. Wilson has provided evidence which she explicitly acknowledged was not within her direct knowledge.

Ms. Wilson is also entitled to express her opinions on the capital expenditure necessary to safely and securely operate the network, the accounting processes for allocating expenditure between capital and operating expenditure, the quality of Energex staff and directors, appropriate level of profits that an electricity distributor should earn and the adequacy of Energex's internal processes. However, Energex does not agree with these views and the Committee should be cognisant of Ms. Wilson's experience and role in the business when determining the weight it should give to these opinions and whether they should found any recommendations of the Committee.

Energex is proud of its staff and their commitment to the community of South East Queensland. Energex will continue to drive efficiencies in delivering quality and cost effective energy solutions.

For the benefit of the Committee Energex has identified, and responded to, each individual allegation of Ms. Wilson, in the following table.

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| 1. | Page 1 | <p>In 2012/3, Energex invented a figure for its Weighted Average Cost of Capital (WACC) and Ms. Wilson was required to provide an outlier debt cost to justify this fictitious WACC.</p> <p>This fictitious WACC figure lead to increased power prices for consumers and higher profits for Energex</p> | <p>Calculation of the WACC</p> <p>WACC is a figure derived from capital markets and reflects the cost of equity and cost of debt prevalent in the market at that time. Currently, Energex’s WACC is applied for the entirety of the regulatory period. The WACC for the 2010-2015 period, which runs from 1 July 2010 to 30 June 2015, was determined to be 9.72%.</p> <p>Energex’s WACC is determined by the Australian Energy Regulator (AER). As a consequence, outside of the regulatory proposal process, it is not possible for Energex or its shareholding Ministers to do anything which can impact upon the WACC. This is supported by the following submissions provided by the AER and the Energy Networks Association (ENA) as summarised in Attachment A in particular:</p> <p><i>“Network businesses regulatory cost of capital is determined by the regulator which uses benchmark cost of equity and cost of debt.</i></p> <p><i>This means no business is able to argue to the regulator for a higher cost of debt or equity on the basis of individual business circumstances.</i></p> <p><i>This means that consumers are never required to pay more due to any potential inefficiency in business financing.</i></p> <p><i>The AER makes its independent decision on the WACC that will apply based on provisions of the National Electricity Rules.”</i></p> <p>(Energy Networks Australia – 18 December, 2014, Submission 31 (Pages 6 - 7))</p> |

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| | | | <p><i>“Setting the rate of return is a key feature of all regulatory decisions we make. While businesses can propose any rate of return, it is the AER who determines the rate of return for the business in question”</i></p> <p>(Australia Energy Regulator – November, 2014, Submission 36 (Page 7))</p> <p>Preparation of the Statement of Corporate Intent</p> <p>Every year, Energex is required under the <i>Government Owned Corporations Act 1993</i> to provide its shareholding ministers with a Statement of Corporate Intent (SCI) and Corporate Plan (CP) which sets out Energex’s targets (financial and otherwise) for the next financial year and forecasts the financial outcomes for the business over the forward period. This is then approved by Energex’s shareholding Ministers.</p> <p>In preparing the draft SCI and CP in early 2013, it was necessary for Energex to try and predict the WACC that would be determined by the AER for the next regulatory period. The modelling was not used for any other reason than to prepare a draft SCI or CP. Further, as outlined in the submissions made by the ENA, <i>“any large business, can and do develop their own internal estimates of their cost of capital which are used for business planning purposes, scenario testing and to inform investment and capital allocation decisions?”</i> (Energy Networks Australia – 18 December, 2014, Submission 31 (Pages 6 - 7))</p> <p>As outlined in the submissions made by the AER on 18 December 2014 and by Mr Effeney in his evidence provided to the Committee on 16 February 2015, it became evident to Energex in early 2013 that market conditions that</p> |

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| | | | <p>existed at the time were substantially different from those which existed in 2009 when the AER determined the WACC for the 2010-2015 regulatory period. In 2009, the global financial crisis was still creating uncertainty and significantly impacting debt and equity markets. In contrast, at the moment, the current market conditions reflect a stable, low interest rate environment and lower debt and equity market expectations. This positive change in sentiment was almost certain to lead to a lower WACC for the 2015-20 regulatory period.</p> <p>The change in market conditions and the impact of this on the WACC were important factors for Energex to consider in the preparation of financial targets to include in its draft SCI/CP. It is for this reason that a WACC of 8.13% was used in the Energex 2013/4 Corporate Plan. This figure was calculated for use in the draft SCI/CP and not as part of Energex’s regulatory proposal.</p> <p>Work undertaken by Ms. Wilson</p> <p>Ms. Wilson acknowledged in her public evidence that she was in no way involved in Energex’s actual regulatory process. As outlined in her evidence on 24 March 2015, Ms. Wilson’s involvement in calculating a potential cost of debt was only linked to Energex’s forecasting and planning process as part of the preparation of the SCI and CP.</p> <p>In particular, in the evidence given to the Senate on 24 March 2015, Ms. Wilson states as follows:</p> <p><i>“With regard to the AER submission? I was not a part of putting together the AER proposal, but for whatever Energex put together for the AER they obviously looked at the AER guidelines and put forward what they thought was appropriate</i></p> |

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| | | | <p><i>for their business”</i></p> <p>She also stated that “...I was not part of the strategy and regulation team” when asked whether she was involved in the preparation of the regulatory proposal.</p> <p>Further, Ms. Wilson also provided the following evidence:</p> <p><i>“ Mr Effeney is correct. I was not a part of the group that did the AER submission. However, what I will say is that the corporate plan and the statement of corporate intent are done and they are for the Queensland government. It is basically what Energex believe at that point in time they can reasonably achieve. It is the KPIs that they are signing up to.”</i></p> <p>Therefore, Energex considers that the evidence is clear that Ms Wilson’s work was only linked to Energex’s forecasting and planning process not the 2015-20 regulatory proposal.</p> <p>In addition, Energex’s regulatory proposal was lodged on 31 October 2014, well after Ms. Wilson ceased to work actively within the business.</p> <p>As a consequence, the work done by Ms. Wilson did not, in any way, directly or indirectly, have any impact on:</p> <ul style="list-style-type: none"> • the WACC determined by the AER under the National Electricity Rules for the 2010-15 regulatory period or the 2015-20 regulatory periods; • prices for consumers; or • profits for Energex’s Shareholders. |
| 2. | Pages 1-2 | Energex executives did not understand, or wilfully ignored, | The actions of the Energex executives in this situation were above reproach and entirely consistent with good practice and governance. On behalf of its |

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| | | that the debt figures provided by Ms Wilson as part of the modelling were 'outliers' | <p>employees, Energex rejects any allegation that any employee was involved in anything untoward or underhand.</p> <p>The relevant executives understood exactly how each of the components of WACC operated and the impact of what Ms. Wilson was asked by her manager to do. They were fully aware that debt figures sourced by Ms. Wilson would be used for forecasting purposes and would have no influence or bearing on the WACC determined by the AER.</p> |
| 3. | Page 2 | The work which Ms. Wilson undertook may have been used in Energex's regulatory proposal | <p>For the avoidance of doubt, Energex confirms that Ms Wilson's work in relation to modelling of Energex's cost of debt component of its WACC for the 2013/14 SCI/CP was not used in any way for Energex's 2015-20 Regulatory Proposal lodged with the AER on 31 October 2014. This is confirmed by the evidence provided by Ms. Wilson as outlined above.</p> <p>In the 2015-20 Regulatory Proposal lodged on 31 October 2014 with the AER, Energex proposed a WACC of 7.75%. The evidence supporting Energex's position on these two figures is included as part of Energex's regulatory proposal and available on the AER's website.</p> <p>The AER will make the actual determination of WACC for 2015/16 on 30 April 2015 and for 2016/17 - 2019/20 on 31 October 2015.</p> |
| 4. | Page 2 | Energex uses the threat of litigation to intimidate the AER and game the system | Following the 2010 distribution determination by the AER, Energex, along with many other electricity distributors, sought a merits review of the AER's decision in relation to gamma (a regulatory construct to attempt to assign a value to franking credits). In Energex's view, the AER's gamma determination was incorrect. |

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| | | | <p>Recourse to merits review for contesting regulatory decisions is explicitly part of the National Electricity Rules.</p> <p>The Australian Competition Tribunal decided, after receiving a significant volume of evidence from various experts, that the AER had erred in their decision on the value of gamma and remade the determination on this point. In Energex’s view, having recourse to a tribunal to correct an originally incorrect decision is not being intimidating or “gaming” the system.</p> <p>Apart from the gamma review undertaken in 2010, Energex has never litigated or threatened to litigate against the AER.</p> <p>Energex’s annual reports do not say that Energex will fight to win and as can be seen from the relevant accounting notes in Energex’s annual reports during the period of Ms. Wilson’s employment, Energex has an extremely low level of claims and litigation for a company of its size.</p> <p>In commercial matters Energex, uses litigation as a last resort. When forced to litigate Energex endeavours to be a model litigant.</p> |
| 5. | Page 3 | <p>That Energex profits from the difference between the cost of debt obtained from Queensland Treasury Corporation (QTC) and the cost of capital it recovers from customers.</p> <p>The difference between the cost of debt and WACC is a ‘nice little earner’ for Energex</p> | <p>This allegation shows a misunderstanding about the difference between the cost of debt and the WACC determined by the AER.</p> <p>As Ms. Wilson highlighted to the Committee, the cost of debt is just one component of the WACC.</p> <p>In current market conditions, the cost of equity is a higher number than the cost of debt. So, given the WACC is the weighted average cost of capital (being debt capital and equity capital), any average of the cost of equity and the cost of debt will result in a number higher than the cost of debt but lower</p> |

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| | | | <p>than the cost of equity. A fuller explanation in relation to cost of debt and equity for network businesses is contained in Energex’s regulatory proposal lodged on 31 October 2014.</p> <p>In relation to its debt capital requirements, Energex is required to borrow its funds from QTC rather than on the open market.</p> <p>It is correct that the interest rate QTC charges to Energex is higher than the interest rate that QTC pays for that debt on the open market but this is not something within Energex’s control. The interest rate charged to Energex is intended to ensure (on competitive neutrality grounds) that Energex is no better off financially borrowing from QTC compared to borrowing from another lender.</p> <p>There is nothing remarkable or noteworthy in the statement that the interest rate Energex pays to QTC for its debt capital is less than the weighted average cost of capital determined by the AER.</p> |
| 6. | Page 3 | Energex’s actual expenditure is different to its “claimed” expenditure | <p>It is unclear exactly what this allegation is referring to. Energex assumes that this is related to the actual capital expenditure compared to that approved by the AER in the 2010-15 distribution determination.</p> <p>The AER provides a determination for each five year period which determines the allowable revenue for the period based on the benchmark efficient spend that Energex needs to make, both capital and operating. Energex refers the Committee to the detailed submissions of the AER, AEMC, Energex and other industry bodies in relation to the rationale behind this system.</p> <p>Within each regulatory period, the system incentivises Energex to spend less</p> |

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| | | | <p>than what was assumed in the original determination via various incentive schemes incorporated in the National Electricity Rules.</p> <p>Subsequent to the AER's 2010-15 Determination changes in the operating environment meant that Energex required significantly less capital expenditure than anticipated at the time of the AER's 2010-15 Determination.</p> <p>During the 2010-15 regulatory period, the Queensland Government independently considered Energex's operations through the Electricity Network Capital Review (ENCAP) review and the Inter-Department Committee on Electricity Sector Reform (IDC) and the Independent Review Panel (IRP). The outcome of each of these reviews is publicly available.</p> <p>The ENCAP review resulted in the lowering of a number of security and reliability standards, as Energex had achieved the stated objectives of security and reliability on the judgement that consumers did not value or require the mandated performance improvements. This reduced the need for capital expenditure on the Energex network by some \$800M. At the time the Queensland Government directed that the benefits of the reductions be passed to consumers.</p> <p>Energex also found that actual population, customer and peak demand and growth were lower than the numbers forecast by the AER in its Determination in 2010 due to various reasons (eg higher than forecast solar installations and reduced migration to South East Queensland). These lower than forecast outcomes resulted in a further reduction in capital expenditure of approximately \$1B compared to the amount allowed under the AER's 2010-15 Determination.</p> |

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| | | | <p>The benefit of this lower spend will flow to customers from 1 July 2015 from a lower opening Regulated Asset Base for the 2015-20 Regulatory period compared to what was expected at the time of the 2010-15 determination.</p> <p>This capital expenditure underspend is an entirely transparent process, which is explicitly incentivised by the National Electricity Rules. The benefits of this underspend are already being felt by Queensland electricity consumers who have benefited by price adjustments of \$146m over the past 3 years. These adjustments are detailed in Energex's Annual Pricing Proposals available on Energex and AER websites.</p> |
| 7. | Pages 3-4 | Energex incurred operational expenditure that has been included its capital expenditure | <p>Ms. Wilson's role with Energex was as a Treasury Analyst within Energex's Finance office. A copy of her position description together with the organisational chart is attached (Attachment B and Attachment C). As can be seen from the limited scope of this role's involvement in the financial accounting side of the business, it would be difficult for a person in this role to reasonably assess whether Energex has appropriately allocated its expenditure between capital and operating expenses.</p> <p>Energex capitalises expenditure in compliance with its Finance Policy Manual which complies with Australian Accounting Standards and cost attribution principles as outlined by the AER. Energex's statutory and regulatory accounts are subject to external audit each year. No evidence of incorrect costings to capital has been found as part of these Audits.</p> <p>Energex performs periodic reviews of the outcome of the application of its internal business rules to verify ongoing compliance with its Finance Policy Manual, Australian Accounting Standards and cost allocation principles approved by the AER. Most recently in 2014, Energex also engaged a large</p> |

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| | | | <p>accounting firm to perform an independent review of material items being capitalised to ensure ongoing compliance with Australian Accounting Standards.</p> <p>An explanation of Energex's capitalisation process and rules and a copy of the capitalisation policy are furnished to the AER on an annual basis under Energex's regulatory reporting obligations.</p> |
| 8. | Page 4 | Energex is an inefficient and bloated organisation | <p>Ms. Wilson has not worked at Energex since early 2014 when Ms Wilson took extended leave before she resigned late last year.</p> <p>Ms. Wilson's role with Energex was as a Treasury Analyst. As can be seen from the position description, this role had no involvement in the human resources side of the business. As such, it would be difficult for a person in this role to reasonably assess the Energex human resource requirements to maintain a safe and reliable electricity network that meets our customers' expectations.</p> <p>In 2012, Energex initiated a strategy that has seen its workforce reduce by more than 20 per cent since that time in line with reduced electricity demand and reduced capital works program. Our staffing levels and expenditure are also regularly externally benchmarked and assessed.</p> <p>Energex is very proud of its staff and their commitment to the community of South East Queensland. Energex will continue to drive efficiency and seek to deliver quality and cost effective outcomes for our customers.</p> |
| 9. | Page 4 | The Energex Board does not adequately exercise its | The Board of Energex, like all boards of directors, is appointed by the company's shareholders to oversee management and act in the best interests |

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| | | fiduciary duties because it does not adequately question and investigate management | <p>of the company and shareholders. The Board at the time of Ms. Wilson's employment (as well as the current Board) contained members with experience in diverse industries.</p> <p>The individual Board members understand that they have a fiduciary duty and obligations under the Corporations Act, and general law, to act with diligence and good faith in discharging their duties.</p> <p>The Board of Energex takes its fiduciary and legal duties very seriously and complies with its obligation to oversee and question management. The Board processes and sub-committee structure are extremely robust.</p> <p>Energex's corporate governance framework reflects the corporate governance principles espoused by the ASX and Energex reports against these every year in its annual report (available on the Energex website).</p> <p>Ms Wilson's role, as described in her position description, involved no direct interaction with the Board - or even direct interaction with senior management who themselves directly interact with the Board. Consequently, it difficult to understand how Ms. Wilson can reasonably come to her conclusion on this point.</p> <p>The Board takes great pride in Energex's long history of success in its business as an electricity distributor.</p> <p>Apart from the rumour and innuendo contained in this evidence to the Committee, there is no other basis for the allegation that the Board does not adequately exercise its duties.</p> |
| 10. | Page 4 | Energex management lies to | To the best of Energex's knowledge, Ms Wilson has never before put forward |

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| | | the Board of Energex and covers up information | <p>the allegation that Energex management lie to, or withhold information from, the Board.</p> <p>Ms. Wilson's role with Energex was as a Treasury Analyst. As can be seen from the position description, this role had no involvement in interacting with the Board and only an indirect involvement in reviewing some board papers that would ultimately be considered by the Board. As such, it would be difficult for a person in this role to reasonably assess whether Energex management lie to, or withhold information from, the directors.</p> <p>Ms. Wilson's only stated example relates to the board paper further discussed at allegation 18 below. As set out below, this allegation has been internally investigated and could not be substantiated.</p> |
| 11. | Pages 4-5 | That Energex's capital expenditure has not been in the best interests of electricity consumers and should be audited | <p>Ms Wilson's role as a treasury analyst did not give her any oversight or involvement in decisions relating to how much capital expenditure occurred on the Energex network and what expenditure was required to meet government, community and other stakeholder expectations for a safe and reliable distribution network. Therefore, Energex does not believe that Ms. Wilson can reasonably make an informed comment or assessment about Energex's capital investment requirements to maintain a safe and reliable electricity network.</p> <p>As set out above, numerous reviews (ENCAP, IRP/IDC) have dealt with this issue. Energex's capital expenditure and its efficiency is the subject of considerable ongoing review and investigation. Each year Energex publishes a Distribution Annual Planning Report (DAPR) which, in significant detail, sets out what work is to be done and is being planned as well as forecasts for electricity consumption and growth.</p> |

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| | | | <p>As set out above in relation to allegation 6, Energex has reduced capital expenditure by some \$1.8B and returned \$146m of the benefit of reduced capital expenditure to consumers through price adjustments. It has also curtailed its future capital expenditure to align with reductions in future forecast electricity demand.</p> <p>In addition to the statutory accounting requirements, the regulatory regime under which Energex operates requires Energex to provide a significant amount of information to the AER annually in response to Regulatory Information Notices. The AER requires the financial information provided by Energex to be externally audited. This external audit supports the CEO's formal sign off on the completeness and accuracy of this information.</p> <p>As mentioned above, Energex's capital and operating expenditure is externally audited and no evidence of incorrect costings to capital has been found as part of these audits.</p> <p>Energex strongly rejects any argument that its capital expenditure has not been in the interests of electricity consumers.</p> |
| 12. | Page 5 | Following Energex "not being allowed to put a substation in a basement of a building" Energex purchased a CBD Building, put a substation in it, and sold the building. | <p>Ms. Wilson explicitly states that she has no direct knowledge of this alleged transaction and it is only a "story [she] heard". Such evidence based on mere rumour and innuendo has no place in important proceedings such as this Inquiry. Energex rejects outright that it has ever purchased a CBD Building, put a substation in it, and sold the Building.</p> <p>As would be expected of a prudent electricity distributor, Energex holds a range of property in its portfolio for future network expansion and needs, including within the CBD of Brisbane and other metropolitan centres.</p> |

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| 13. | Page 5 | Energex paid millions of dollars to purchase an accounting system upgrade which it never received. | <p>This is, again, evidence in which Ms. Wilson has, by her own explicit admission, no direct experience or knowledge.</p> <p>It again appears to be based only on rumour and innuendo and Energex is not able to identify any factual basis to this statement. Energex assumes that Ms Wilson is referring to a scoping study to investigate the future replacement of the existing Enterprise Resource Planning (ERP) program. The business case for replacement was not compelling so the decision was made, at that time, to retain the existing ERP. The process followed by Energex in this instance, and the outcome constitute good business practice.</p> <p>Energex rejects outright that there has ever been fraud in relation to the purchase of accounting or other ICT systems.</p> |
| 14. | Page 5-6 | Energex is overstaffed and the employees are not appropriately qualified. | <p>Ms. Wilson has not worked at Energex since early 2014 when Ms. Wilson took extended leave before she resigned late last year.</p> <p>Ms. Wilson's role with Energex was as a Treasury Analyst. In the capacity of this role it would be difficult for any person to reasonably assess the Energex human resource requirements to maintain a safe and reliable electricity network that meets our customers' expectations.</p> <p>Energex initiated a strategy in 2012 that has seen its workforce reduce by more than 20 per cent since that time in line with reduced electricity demand. Our staffing levels and expenditure are also regularly externally benchmarked and assessed.</p> <p>Energex strongly rejects any allegation that its staff members are not</p> |

Energex Response to Proof Committee Hansard

Appendix 1

SENATE ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE - Performance management of electricity network companies (In camera) TUESDAY, 24 MARCH 2015.

| Allegation No: | Page Reference | Allegation | Energex Response |
|----------------|----------------|--|---|
| | | | <p>appropriately qualified or lack commerciality. Energex has expert employees in a wide range of fields. Many have experience within government and government owned corporations but many others have private sector backgrounds.</p> <p>Energex is very proud of the Energex staff and their commitment to the community of South East Queensland. Energex will continue to drive efficiency and seek to deliver quality and cost effective outcomes for our customers.</p> |
| 15. | Page 6 | External audits were not taken of the Energex treasury department. | <p>Energex rejects the allegation that no external audits were taken of the Energex treasury department. During Ms. Wilson's time at Energex, Energex's external auditors audited the key activities of Energex's Treasury team to the extent that they impacted the financial outcomes of Energex in 2012, 2013 and 2014.</p> <p>In addition to the regular external audit, during Ms. Wilson's active employment (June 2012- early January 2014) there was a comprehensive internal audit of treasury undertaken by senior internal auditor. Ms Wilson was involved in the scoping meeting as part of the planning process and participated in the audit.</p> |
| 16. | Page 6 | Energex put in an acting CFO who did not have accounting qualifications. | <p>Energex rejects the allegation that there was an acting Chief Financial Officer with no accounting qualifications.</p> <p>Following the departure of Energex's Chief Financial Officer in 2013, Energex undertook a temporary restructure and the finance department reported to an incumbent executive general manager with extensive experience in the electricity industry.</p> |

Energex Response to Proof Committee Hansard

Appendix 1

SENATE ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE - Performance management of electricity network companies (In camera) TUESDAY, 24 MARCH 2015.

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| | | | <p>At no stage did the individual hold the title Chief Financial Officer and at all times Energex had an appropriate level of skill, expertise and qualifications in its finance department with appropriate controls and oversight.</p> <p>It is not unusual that temporary restructures such as this take place during recruitment processes. A Chief Financial Officer, with accounting qualifications, was appointed to Energex in 2014 on a permanent basis following an open internal and external recruitment process.</p> |
| 17. | Page 7 | Ms. Wilson held a 'middle management' role within Energex. | <p>Ms. Wilson had no direct reports or staff supervisory responsibilities or operating budget. Ms. Wilson held a professional role with functional responsibilities - but no managerial or budget responsibilities.</p> <p>As can be seen from the excerpt of the organisational chart attached (Attachment C), Ms. Wilson's line of reporting was to the Treasury Manager (a department manager). The Treasury Manager, reported to a Group Manager, Business Performance and Analysis, who in turn reported to the CFO.</p> <p>Energex does not believe that Ms Wilson's role can be categorised as a middle manager based on this line of reporting, key accountabilities and duties and budget responsibilities as outlined in the position description.</p> |
| 18. | Pages 8-9 | Energex's procurement department changed certain sections of board documentation Ms Wilson had written. | <p>Early in 2015, following Ms. Wilson's submission to the AER on Energex's regulatory proposal, Energex investigated the claim that certain procurement papers provided to the board had been amended without Ms Wilson's consent.</p> <p>In undertaking this investigation Energex looked at all possible board papers in the period Ms. Wilson was employed by Energex as it is impossible to determine which specific contracts Ms. Wilson is referring to or the details of</p> |

SENATE ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE - Performance management of electricity network companies (In camera) TUESDAY, 24 MARCH 2015.

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| | | | <p>the specific Board papers.</p> <p>After an extensive investigation, Energex could find no supporting evidence for Ms. Wilson’s claims.</p> <p>Ms. Wilson was an analyst in the treasury team. As part of her position description the treasury analyst was responsible for providing advice to the procurement department on risk mitigation of treasury risks arising from foreign currency and commodity prices. There was no responsibility for the treasury analyst to ‘sign off’ or approve any transaction.</p> <p>These two risks on which treasury team provided advice were most often found in in price ‘rise and fall’ clauses in supplier contracts. The internal investigation identified 7 possible contracts which contained such a clause that went to the board in the period Ms Wilson was in her role. In relation to these contracts, the treasury analyst’s role was to advise procurement whether to enter into hedging arrangements and to consider likely fluctuations in currency and commodity prices to ensure that the total amount approved by the Board included a sufficient contingency. In each situation, the Board was advised that no hedging was required.</p> <p>In summary:</p> <ul style="list-style-type: none"> • Accountability for the correctness and accuracy of the relevant procurement board papers lay with the executive in charge of procurement and the CEO, not Ms. Wilson or the treasury department; • Ms. Wilson’s role was not to financially evaluate the efficacy of the contract or write commentary to be included in the board pack; • Ms. Wilson, as a treasury analyst, never wrote a board paper, signed off a board paper or undertook any work that was directly visible to the |

SENATE ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE - Performance management of electricity network companies (In camera) TUESDAY, 24 MARCH 2015.

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| | | | <p>Board of Energex; and</p> <ul style="list-style-type: none"> Ms. Wilson, as a treasury analyst, was consulted in relation to whether hedging should be considered as a risk mitigation strategy but her view was simply one input into the risk management process undertaken in deciding on whether to hedge certain financial exposures. |
| 19 | 8 | That a fellow Treasury employee engaged in fraudulent behaviour | <p>Energex has extensively investigated Ms. Wilson's claims of mismanagement and fraud in Treasury, using both internal and external investigators, and none of the allegations were substantiated.</p> <p>The employee named by Ms Wilson has an impeccable record and reputation within Energex and within the industry.</p> |

Attachment A – Extracts from Relevant Submissions

Energy Networks Australia – Response to Terms of Reference 18 December 2014 Submission 31, Pages 6-7

“Importantly, the AER makes its own decision on the actual WACC used in the network determination in accordance with the relevant National Electricity Rules provisions taking into account all the relevant information it has been presented. This includes information submitted by the regulated networks in its proposal, expert and market evidence independently sought by the AER through the process, views and evidence from other stakeholders. The AER also takes into account the outcomes of its own Rate of Return Guidelines.”

“WACCs in the first round of determination were significantly affected by the Global Financial Crisis which impacted upon the cost of equity and the cost of available debt finance. As a result, the median cost of capital in regulatory determinations has fallen considerably since 2008-09. Current quantitative easing policies and low government bond rates means that regulated WACCs are falling and generally exerting a downward pressure on energy prices.

Separately to the regulatory process networks, like any large business, can and do develop their own internal estimates of their cost of capital which are used for business planning purposes, scenario testing and to inform investment and capital allocation decisions.

Networks owned by State governments calculate their WACC in the same manner as privately owned networks and regulators apply the same rules across all networks in setting WACCs. This approach reflects the opportunity cost of the use of public resources and is adopted consistent with competitive neutrality policies...”

Network businesses regulatory cost of capital is determined by the regulator which uses benchmark cost of equity and cost of debt. This means no business is able to argue to the regulator for a higher cost of debt of equity on the basis of individual business circumstances.

This means that consumers are never required to pay more due to any potential efficiency in business financing.

The AER makes its independent decision on the WACC that will apply based on provisions of the National Electricity Rules.

Australia Energy Regulator – 18 December 2015 Submission 36, Page 7

“Setting the rate of return is a key feature of all regulatory decisions we make. While businesses can propose any rate of return, it is the AER who determines the rate of return for the business in question.

The 2012 changes to the rule set out a new approach to setting rates of return for network businesses. A common approach now applies for setting the cost of capital across all electricity.....businesses based on the efficient financing cost of a bench making efficient

entity providing regulated network services. The rule changes also emphasised that the AER should be focusing on the appropriateness of the overall rate of return, rather than looking at the individual parameters that make up the return in isolation”

“While the businesses can propose a rate of return they believe is appropriate, ultimately, it is the role of the AER to set the rate of return for the business in question, consistent with the requirements of the National Electricity Law and the National Electricity Rules after considering all of the material before us. To the extent businesses propose a rate of return that is excessive, this framework gives the AER the ability to reject the forecast and determine the rate of return for the business.”

“Electricity network businesses are capital intensive so even small changes to the return earned on those assets can have a significant impact on the overall revenue”

“For AER determinations made from 2009 to 2011, the forecast cost of capital used to set revenue allowances was generally higher than in previous regulatory periods. The primary factor underpinning the increase was a higher debt risk premium which reflects the cost of borrowing for a business based on its risk of default, issues in global financial markets following the GFC reduced liquidity in debt markets and increased perceptions of risk from late 2008 pushing up the cost of borrowing.

“The range of cost of capital allowances in electricity determinations made since 2012 was 7.5-8.3 per cent compared with up to 10 per cent in 2010”.



Job Profile

| Position Details | | | |
|-------------------------|------------------|-------------------------|--|
| Position Title | Treasury Analyst | | |
| Position No. | 12626 | Division | Corporate Finance and Performance |
| Position Grading | PM2 | Group/Department | Business Performance & Analysis / Treasury |
| Supervisor | Treasury Manager | Location | Newstead |

| Approvals | Last reviewed: 11/07/11 | | |
|-----------------------------|-------------------------|-------------|-------|
| Incumbent Signature | _____ | Date | / / |
| Supervisor Signature | _____ | Date | / / |
| Job Analyst's Name | _____ | Date | _____ |

Job Purpose

The Treasury Analyst is a key member of the Treasury department and is responsible for assisting the Treasury Manager in providing financial risk management and treasury services to the Energex Group. The role is primarily responsible for managing the daily Treasury operations; liquidity management; medium-term cash-flow forecasting, and the development of processes and procedures consistent with these objectives. In addition, the Treasury analyst will assist the Treasury Manager with managing credit risk; interest rate risk and reporting requirements to Senior Management and the Board of the Energex Group.

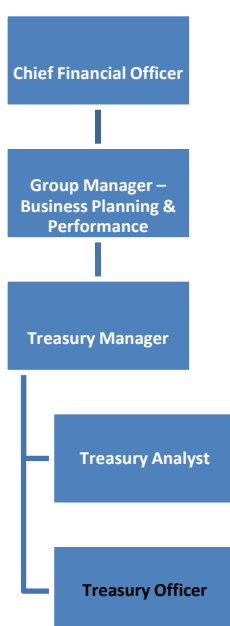
| Key Accountabilities | Measures |
|--|--|
| <p>Treasury Operations</p> <ul style="list-style-type: none"> Review the daily banking & short term liquidity management requirements. Monitor internal controls for Treasury Operations. Oversee and train the Treasury Officer to ensure Treasury Operations are completed accurately and timely. Reviews month-end requirements to ensure they are accurately completed in a timely manner. Oversee the preparation and Analysis of the monthly variances prepared by the Treasury Officer. Maintain relationship with transaction banker. | <ul style="list-style-type: none"> No breaches of policy. No material adverse audit findings. No material errors. Ensure sufficient liquidity is maintained. Accurate and timely settlements. Preparation of month end requirements accurately and on time. Value adding analysis provide to Treasury Manager, Group Manager and CFO in a timely manner. Transaction banking operating in terms of arrangement. |
| <p>Monthly Treasury Report</p> <ul style="list-style-type: none"> Review Monthly Treasury Reports to be provided to the Board and senior management. Provide detailed analysis of all key Treasury results for the month and forward looking outcomes in a concise and timely manner. | <ul style="list-style-type: none"> Board Report to be completed accurately with the inclusion of detailed analysis of the monthly result and financial risk environment going forward. |

| Key Accountabilities | Measures |
|---|--|
| <p>Interest Rate & Refinancing Risk Management</p> <ul style="list-style-type: none"> • Monitor daily movements in interest rates and evaluate impact on Energex's debt management strategy. • Identify investment opportunities for surplus cash to minimise net borrowing costs. • Participate in the development of external funding strategies in conjunction with the Treasury Manager. • Ensure all loan covenants are measured and assist in the development of migration strategies if a breach is forecast. | <ul style="list-style-type: none"> • Detailed analysis and recommendations on interest rate movements provided to Treasury Manager. • Nil breaches of debt covenants and other requirements under loan documentation. • Credit rating metrics are monitored for possible adverse impacts from debt levels and future cash requirements. • Cost of debt maintained within benchmark parameters. |
| <p>Risk Management</p> <ul style="list-style-type: none"> • Work with the Treasury Manager in developing relationships with key parts of the business to pro-actively provide strategic risk management services in areas such as commodity and foreign exchange price risk, procurement advice, leasing arrangements and credit risk. • Participate in the review and maintenance of Treasury policies and procedures and ensure that they continue to meet business risk management requirements. | <ul style="list-style-type: none"> • Identification of key contacts within the Energex Group and the preparation of communication & development plans for those contacts. • Procedures in place to actively management commodity and FX risk. • Treasury Policies are maintained and adhered to within the Energex Group. |
| <p>Credit Risk</p> <ul style="list-style-type: none"> • Undertake credit reviews of Energex counter-parties. | <ul style="list-style-type: none"> • Credit Reviews completed as required. |
| <p>Communication to Management</p> <ul style="list-style-type: none"> • Preparation of Board and Audit Papers. • Preparation of Corporate Finance Memoranda to the Treasury Manager, Group, CFO and CEO, where applicable. | <ul style="list-style-type: none"> • Drafting of required papers with minimal input from the Treasury Manager. |
| <p>Improvement Projects</p> <ul style="list-style-type: none"> • Either lead or provide active participation on identified improvement projects for the Treasury function within Energex. Report outcomes in a succinct format to the Treasury Manager or the Group Manager. • Represent the Treasury Group on project teams within Energex, as required. | <ul style="list-style-type: none"> • Identify improvement opportunities. • Completion of projects within agreed timelines. • Participation in assigned projects. |

Duties

- Ensure work is performed to meet safety, environmental and legal responsibilities in accordance with standard work practices.
- Identify Treasury risks across the business and assist in the development of solutions if appropriate.
- Corporate & Performance Provide detailed analysis of all key Treasury results for the month and forward looking outcomes in a precise and up to date manner.
- Preparation of Board and Audit Committee Papers and other Treasury Memoranda as required.
- Participate in the development and ongoing monitoring of Energex's net borrowing costs.
- Maintain an intimate knowledge of the daily Treasury operations in order to provide detail analysis of actual to budget and emerging trends in Financial Markets, as well as assisting the operation of Treasury by relieving for the Treasury Officer as required.
- Provide assistance with audit requirements for the Treasury Department.
- Develop key relationships across the business to enhance Treasury's ability to monitor and provide advice on Treasury risk management issues.
- Either lead or provide active participation on identified improvement projects for Energex.
- Participate in the development, review and maintenance of Treasury policies and procedures
- Record, monitor, and analyse interest rate movements and recommend strategies for managing Energex net borrowing costs based on this analysis.

Organisation Chart –



Job Dimensions and Relationships

The Treasury Analyst reports to the Treasury Manager and must be able to work within tight deadlines to ensure required tasks are completed as required.

This position requires interaction with all levels in Energex and External business partners, in particular:

- Senior Energex Management
- Procurement Management and staff
- Queensland Treasury Corporation staff
- National Australia Bank staff
- Finance staff within Line of Business
- Other Internal Management as required

Financial:

| | | | |
|---------------------------|--------|---|---------|
| Subordinate staff payroll | \$ Nil | Direct relationship to Capital Works Budget | \$ Nil |
| Operating Budget | \$ Nil | Other budget influences | \$ 430M |

Special Requirements and Working Conditions

- Ensure work is performed to meet safety and environmental responsibilities in accordance with standard work practices.
- Ensure compliance with Energex's compliance regime and adhere to all laws, policies, procedures, codes, standards and guidelines that relate to this position.
- Comply with Energex Policy and legislative requirements in relation to record keeping.
- The Treasury Analyst may be required to represent the Energex Group in forums outside the group and the highest level of professional conduct is expected at all times.

Person Specification

Education/Certification

- Degree qualifications in Commerce/Accounting or a related discipline preferred
- Post graduate studies in Finance an advantage

Specialised Job Knowledge/Demonstrated Ability

- Sound knowledge of finance theory in relation to treasury and corporate finance.
- Familiarity with a treasury operations environment preferred.
- Familiarity with investment evaluation theory and financial modelling.
- Demonstrated knowledge and ability in the use of desktop computing and finance applications.

Critical Competencies

| | |
|--------------------------------|--|
| Teamwork | Actions which tend to foster team spirit and build and maintain cooperative and productive relationships. |
| Decisiveness | Willingness to make a decision, a commitment, a judgement, or to take action. |
| Planning and Organising | Establishing goals and priorities, and allocating appropriate time and resources to activities to enable achievement of those goals. |
| Innovation | Recognising opportunities as they arise, and introducing new and better ways of accomplishing objectives. |
| Persuasion | Using appropriate methods, skills and styles in influencing others to accept ideas, concepts and beliefs. |
| Attention to Detail | A close attention to detail is required to ensure critical information is accurate. |
| Initiative | Ability to identify opportunities and independently set personal work programs with minimal specific direction and guidance. |

Any Other Special Requirements

Previous experience as a corporate banking analyst would be an advantage.

Excerpt from Energex's Organisation Chart

