THE GREAT ENERGY POLICY DEBATE

CPD Legal Studio
Continuing Legal Development

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Mark Carkeet (Partner, Energy)

Joel Reid (Partner, Energy)

Fire and rain

Climate change, NSW, 2020

Security of Supply, SA, 2016

Outline

The big picture	• Where are we now? • What is happening? • Is there a way through this?
Hot spots on the supply chain	• Connecting new generation • Expanding the networks • Retail reforms • Behind the meter
..including for Gas	• Opening new sources of supply • Gas transportation reforms

Part 1
The big picture

MinterEllison

What is the aim of the electricity market?

What's missing?

The environment

The Australian Energy Market Agreement:

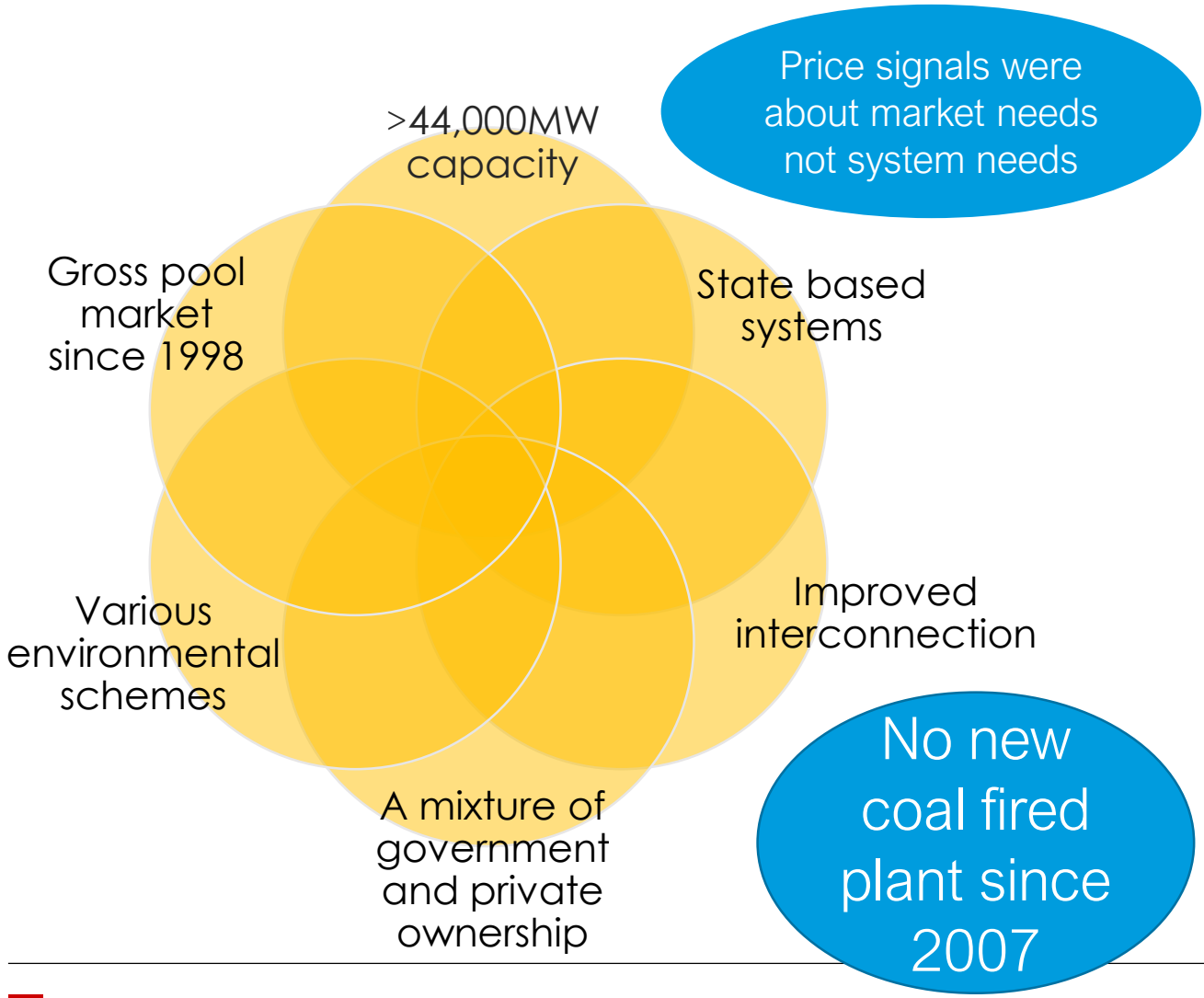
- 'the promotion of the *long term* interests of consumers with regard to the price, quality and reliability of electricity.... services' (clause 2.1)

The National Electricity Law

- 'to promote *efficient* investment in, and *efficient* operation and use of, electricity services for the long term interests of consumers of electricity' wrt:
  - price, quality, safety, reliability and security of supply;
  - for individuals and the national electricity system

And… the priority between price & reliability/ security

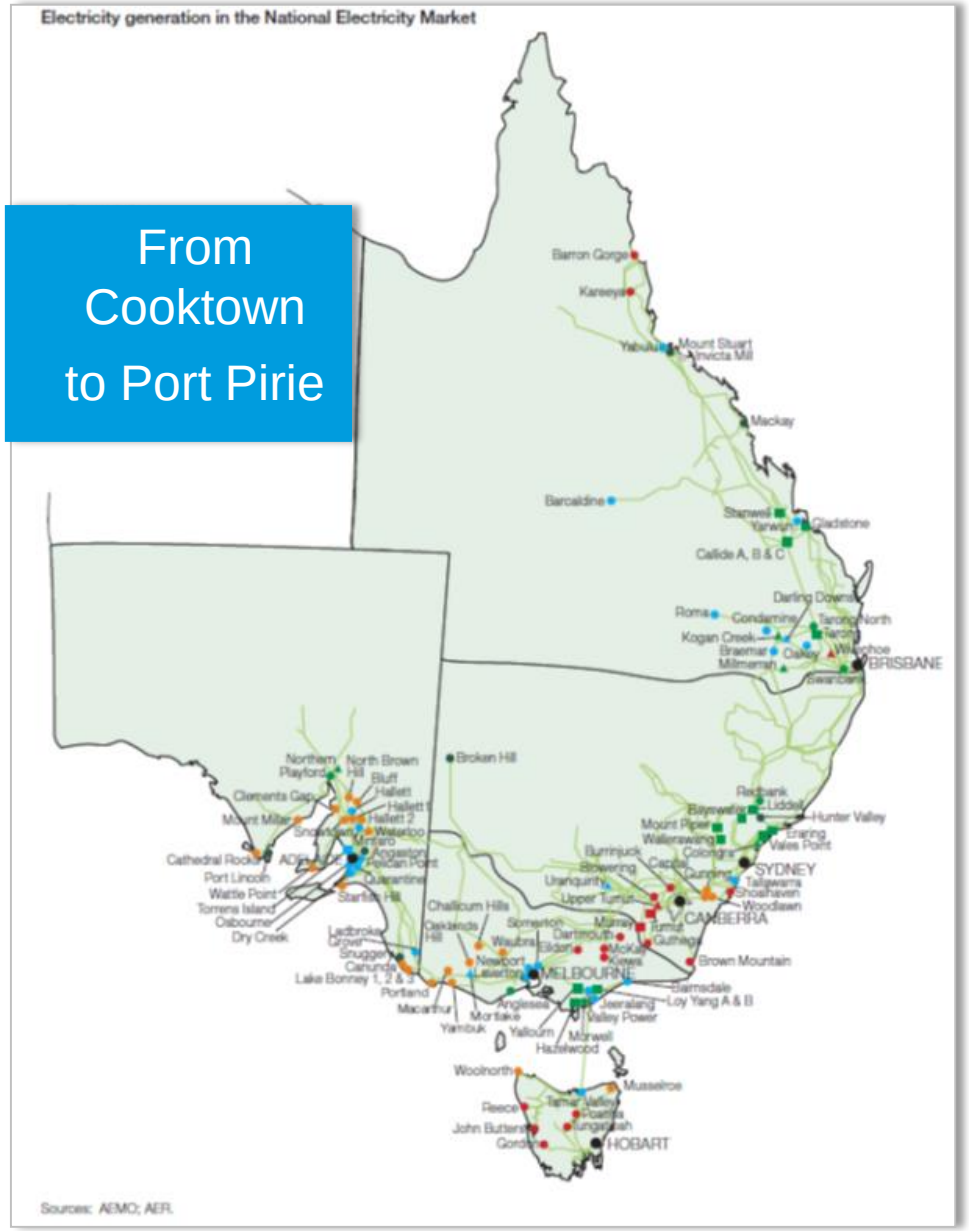
East Coast Aust: The longest, thinnest, grid in the world



Price signals were about market needs not system needs

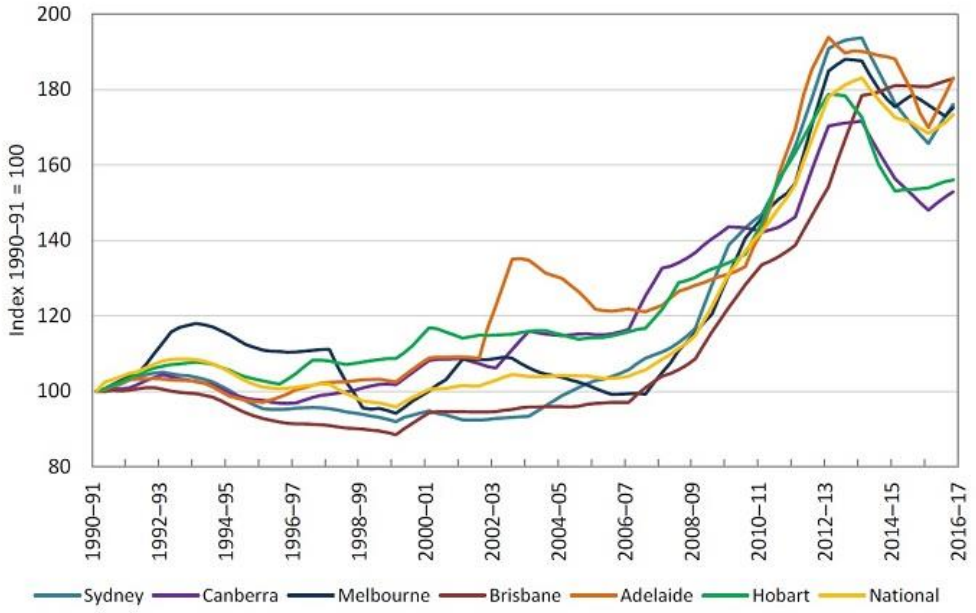
No new coal fired plant since 2007

From Cooktown to Port Pirie



The market worked well for a while, but then….

Prices went up…



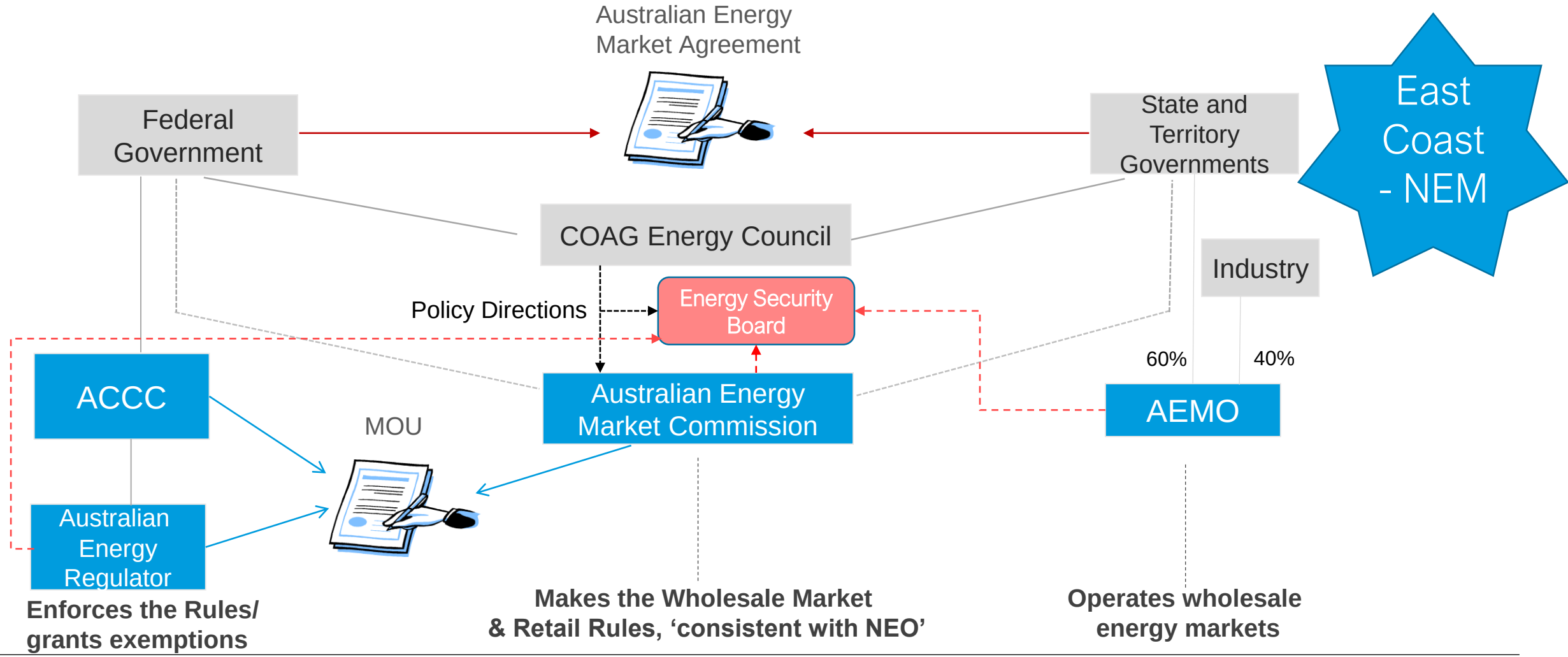
South Australia went down…

And out of that, we got a blueprint.

- 50 recommendations
- 49 adopted by COAG and the coalition
- A huge amount of work has been done
- Especially where politicians have not had to agree
- And now, there's a COAG endorsed 'strategic energy plan'.

https://www.energy.gov.au/government-priorities/energy-markets/independent-review-future-security-national-electricity-market

And a new governance body – the ESB



What's missing?

A single statement that says how price, emissions, reliability and security join up

Without it, it's a game of whack a mole

How have we responded?

Governments have returned as investors

- Snowy 2.0
- Battery of the Nation
- 'Underwriting new generation'.

The States have increasingly gone their own way:

- Victoria wants to bypass the RIT-T
- NSW – REZ Zones
- SA State sponsored battery project
- Tasmanian pricing

There's been a flood of anticipatory generation projects:

- Everywhere the sun shines close to the grid
- A race to get connected and dispatched
- Causing challenges for system stability

The States developed their own emissions policies -

- 7 out of 8 Gov'ts committed to net 0 emissions by 2050
- But integrating the results into the electricity system is left to the NEM bodies

Business (at least big business) is committed to low/no net emissions:

- Business Council of Australia
- Australian Industry Group
- ACCI
- And some think tanks too … eg Grattan Institute

The Energy Charter- A self-regulatory model

- System wide consumer focus
- Prioritising affordability, sustainability, reliability, and supporting the vulnerable
- Already 25 signatories .
- https://www.theenergycharter.com.au/

What does the ESB say about all this?

No progress from Finkel on:

- Emissions reduction trajectory
- Last resort system reserve powers
- New AEMA
- Policy principles for AEMC

And:

- The market rules are too complicated
- Spot and contract markets are converging

ENERGY SECURITY BOARD

A commercial lawyer's approach to untangling this.

Use what is already there if you can.

Move to what people have already agreed

Identify what else must be agreed

And build a process for agreement.

My solution:

- The Australian Energy Markets Agreement has done its work
- But even if you don't accept anthropogenic climate change
- The fact that there is a transition is undeniable.
- Make the AEMA into an Australian Energy Transition Agreement.

What would a Transition Agreement deal with?

Begin with the existing AEMA

Energy's part in the Paris trajectory	• Progress has been slow in transport and agriculture
The relationship between reliability and cost	• At present market design and governance favours reliability
Market rules redesign process	• Simplifying the rules • Converging spot and contract market

New technologies	• Markets can say they are technology neutral • But grids and systems aren't
Transition issues – Generators	• As coal plants close, communities are affected
Stranding issues – Networks	• The universal connection obligation makes a special case for networks
Energy intensive trade exposed	• Because they must be recognised

Last three things

Encoding the Strategic Energy Plan

- Work plan
- Metrics

Finding and funding voices for consumers

- Industry
- Domestic

Recognising the Energy Charter

Part 2

Key issues across the supply chain

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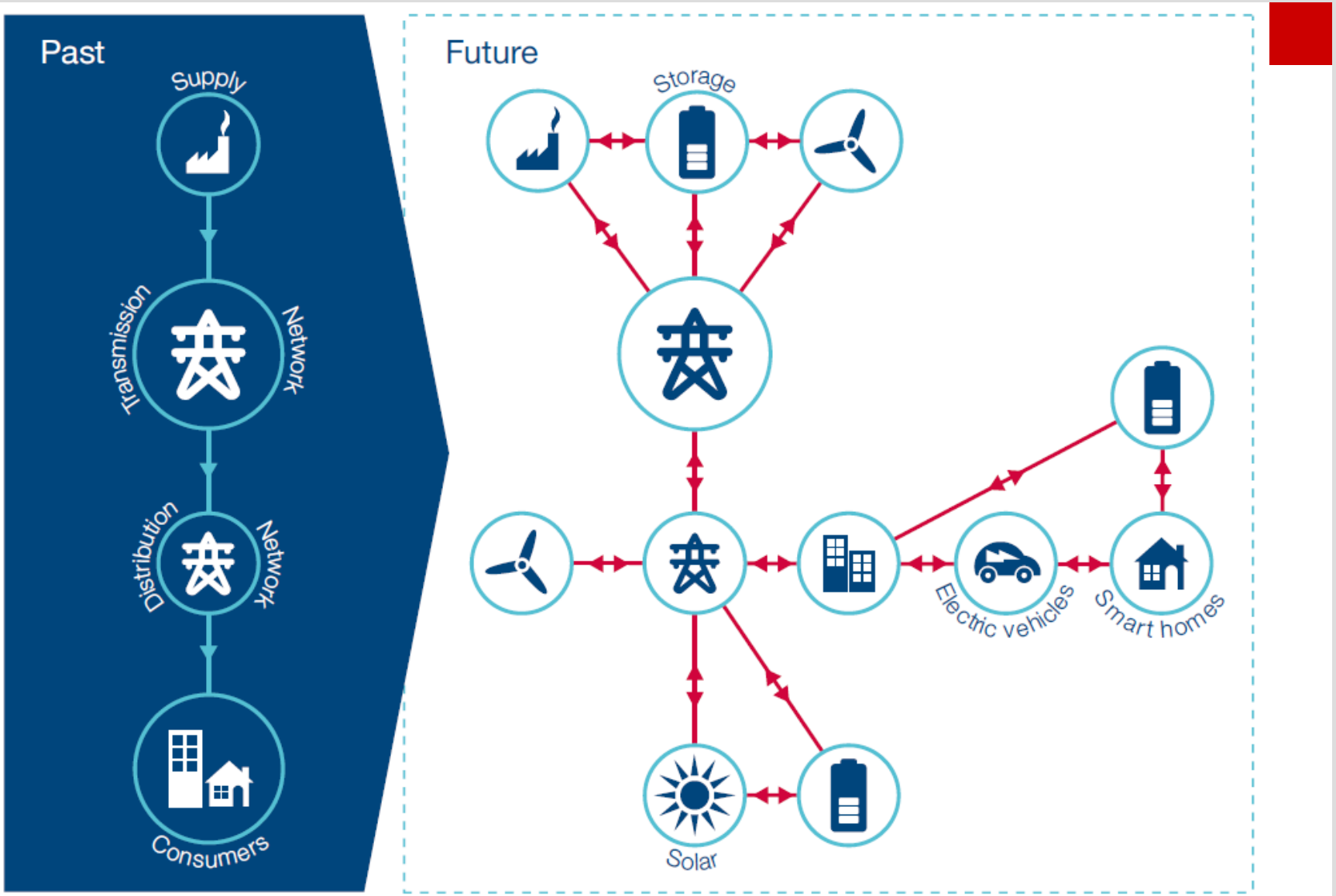
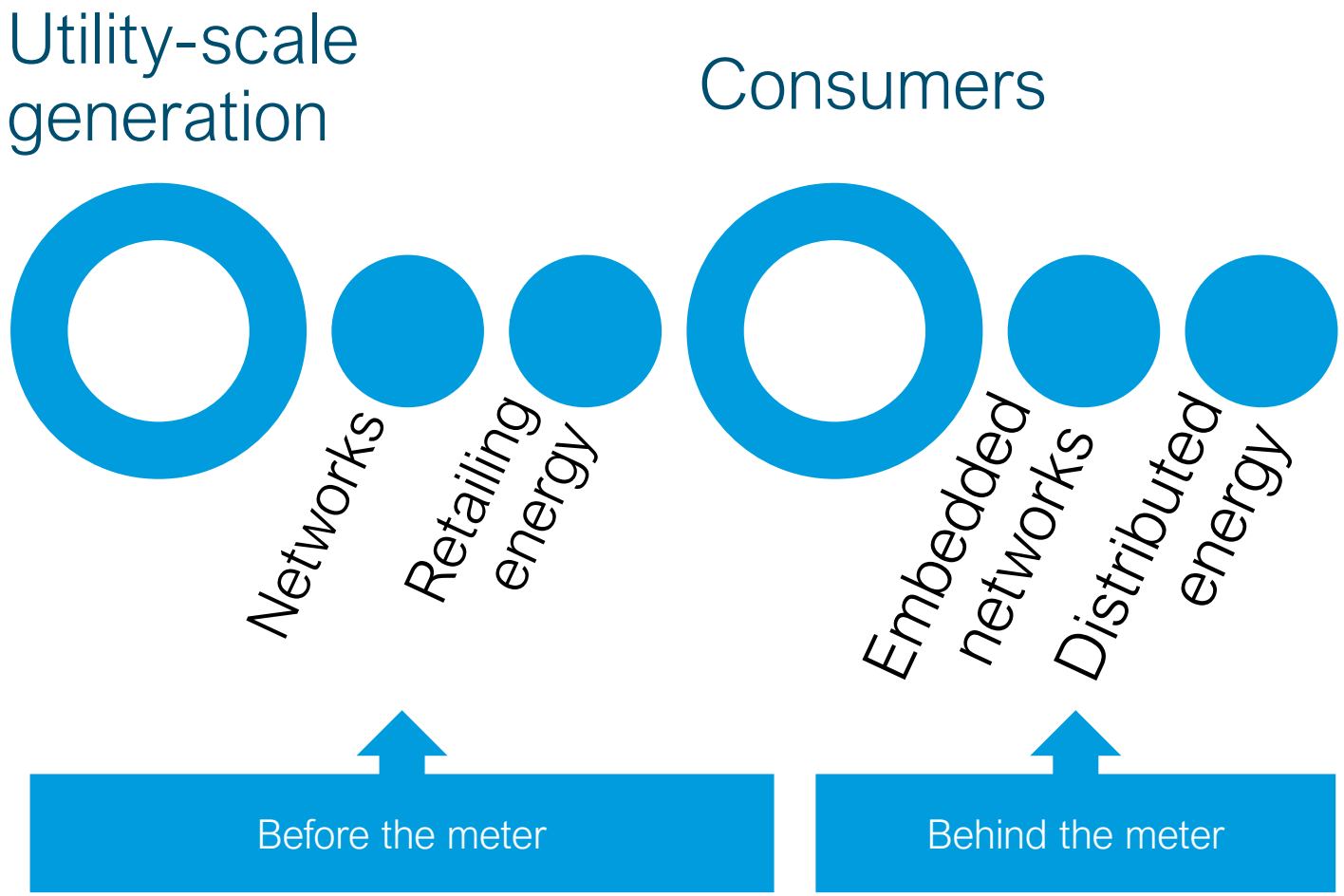
Emerging electricity supply chain



Electricity supply chain



Energy Policy

It's been political…
for 120 years

The Worker: Monthly journal of the Associated Workers of Queensland Jan, 1897.
Decisive Action of the Municipal Council "Attacking the Octopus"
To the Local Electric Lighting Co: "*Mr Clarke, If I were the Municipal Chair the Post would come down within six hours".*

What is the Energy Security Board's assessment for 2019?

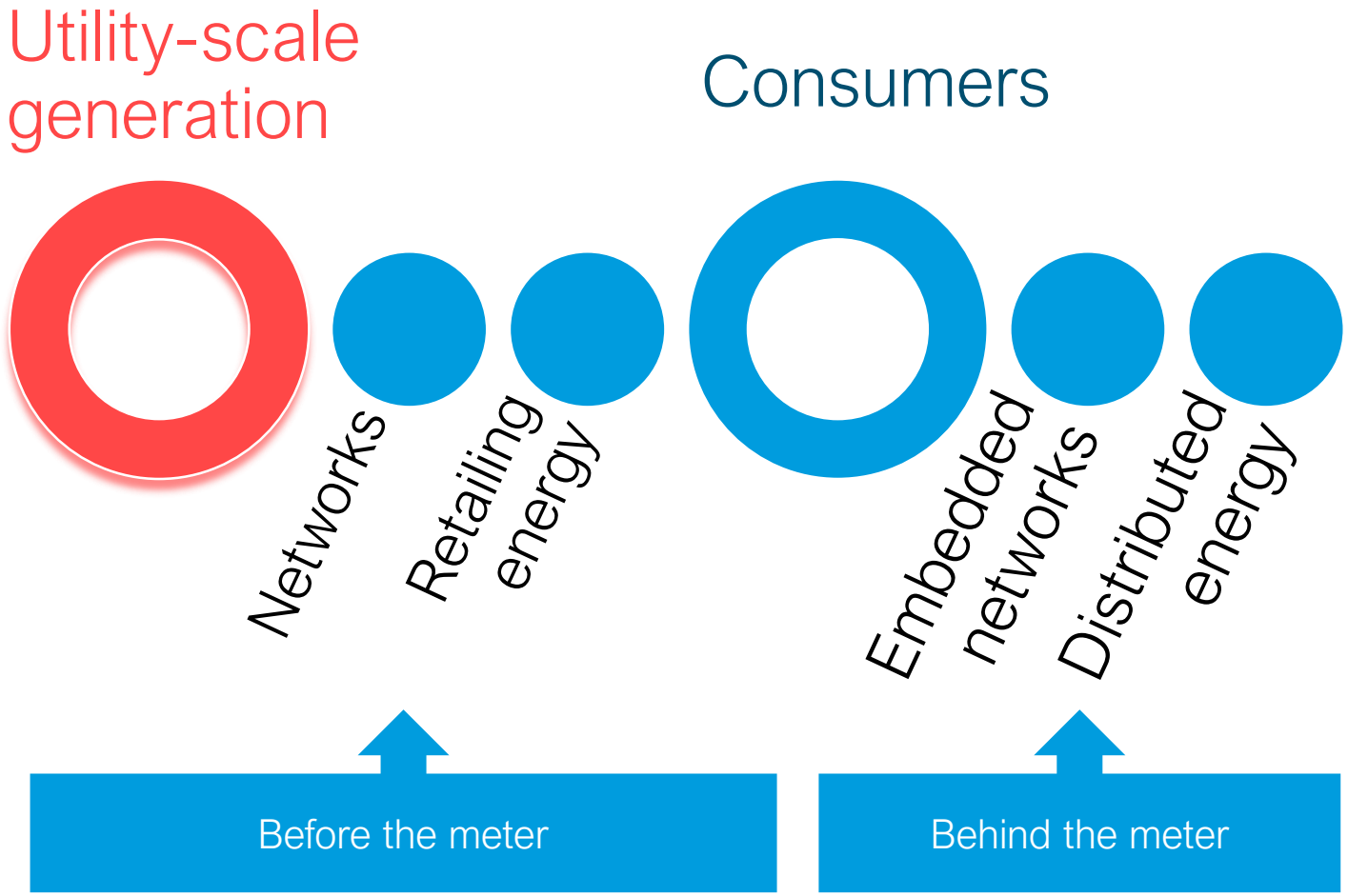
Outlook for affordability has improved (rated 'critical' in 2018)

Outlook for competitive markets is good (same as 2018)

Outlook for a secure, reliable system remains 'critical' (deterioration from 2018)

Outlook for low emissions supply is 'critical'

Outlook for 'strong, agile governance' has improved (no longer 'critical'.


Utility-scale generation
Consumers
Networks
Retailing energy
Embedded networks
Distributed energy
Before the meter
Behind the meter

Connecting new generation

Coal fleet is ageing and needs to be placed within the next 20 years

- May happen earlier under State renewable energy targets.

The best renewable resources are not always in the best locations

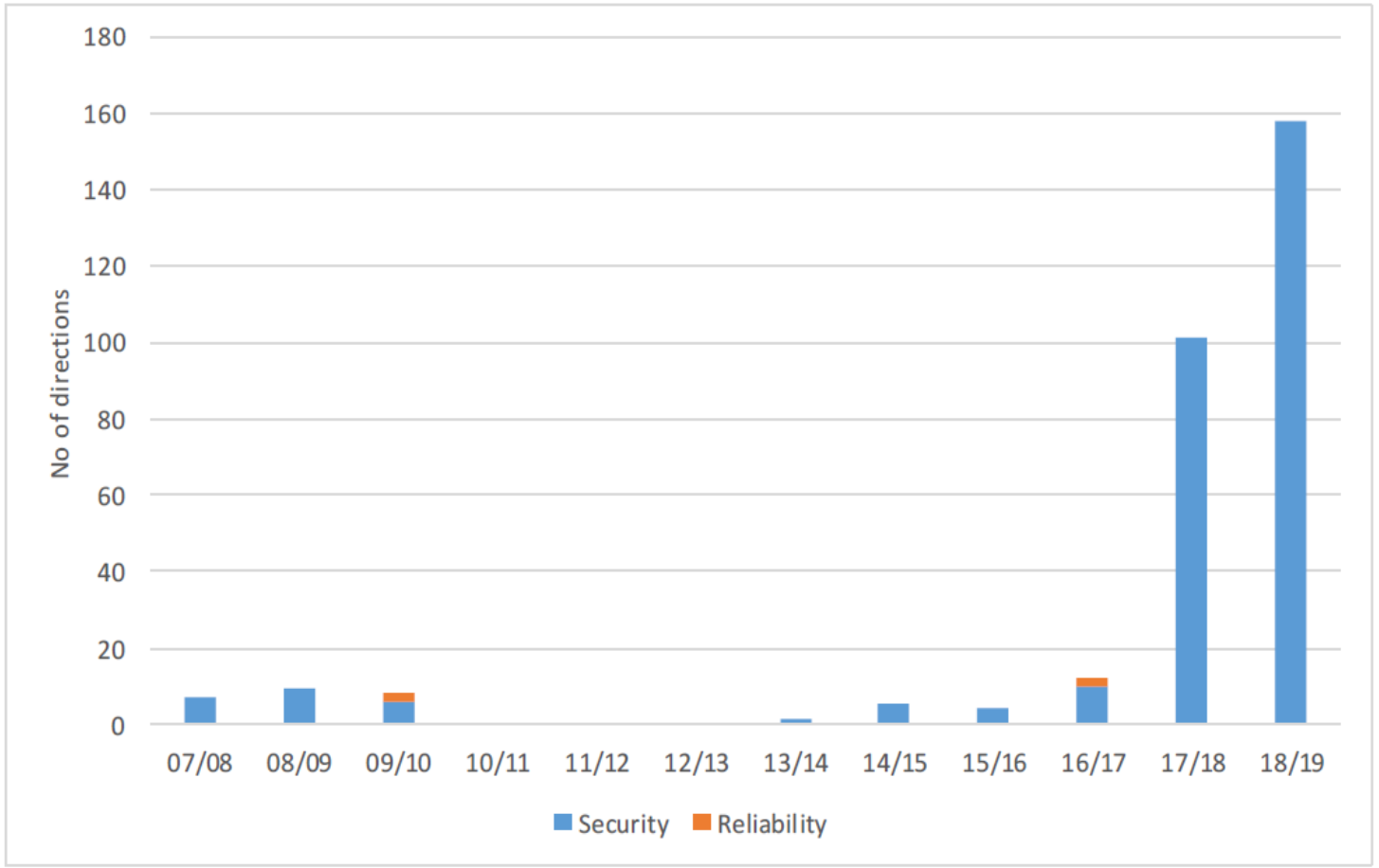
- Marginal loss factors
- Competing land use
- Community concerns

Network connection is protracted and costly

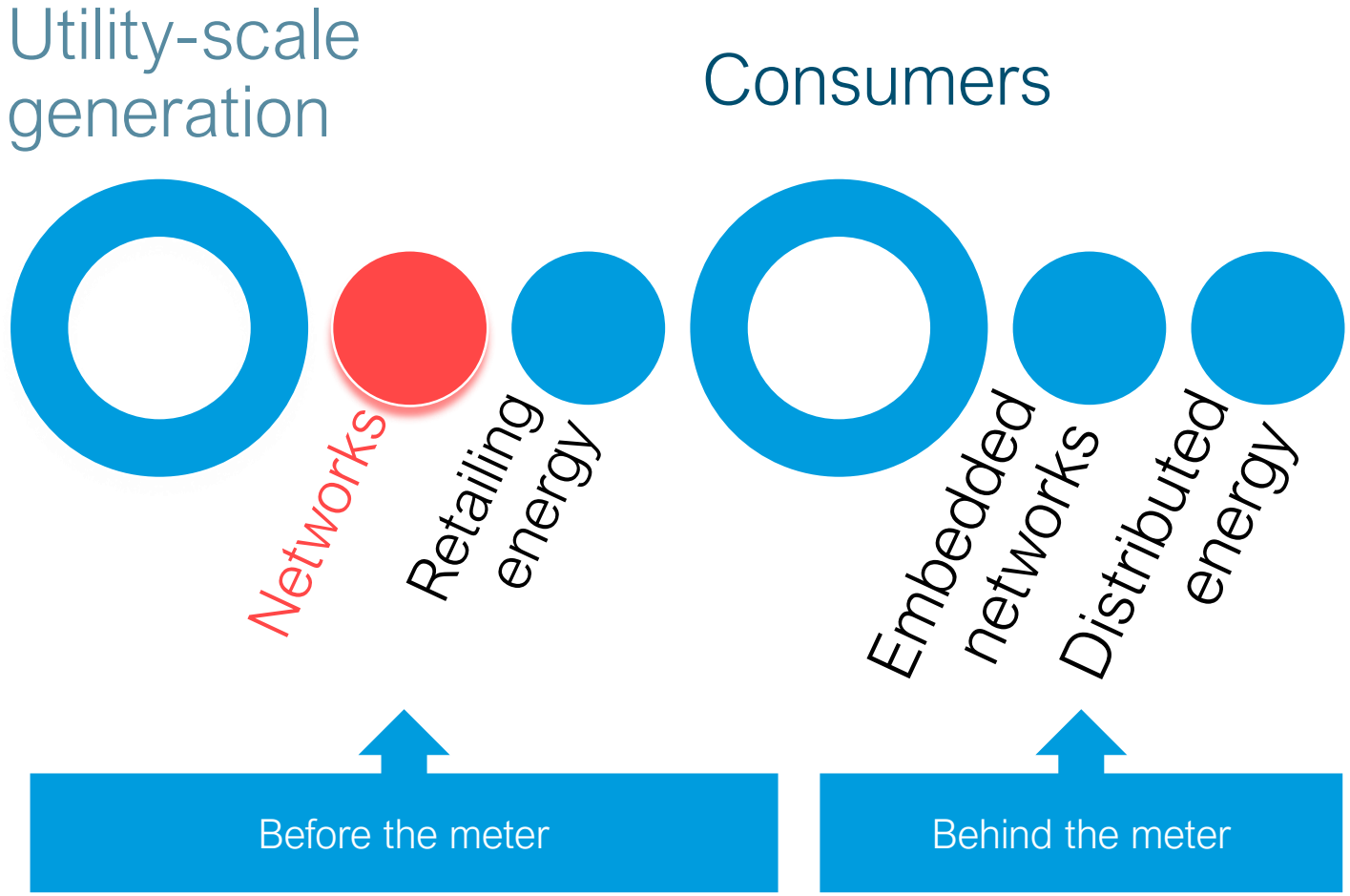
- Network upgrades – first mover *dis*advantage
- Network constraints. But should be offset by ‘do no harm’ principles for new generation
- Grid stability is a struggle with the rise of renewable generation – increasing project cost to manage grid security

The impact of renewable generation on grid security

Market Interventions by AEMO for Security or Reliability



Source: Energy Security Board: Health of the National Electricity Market 2019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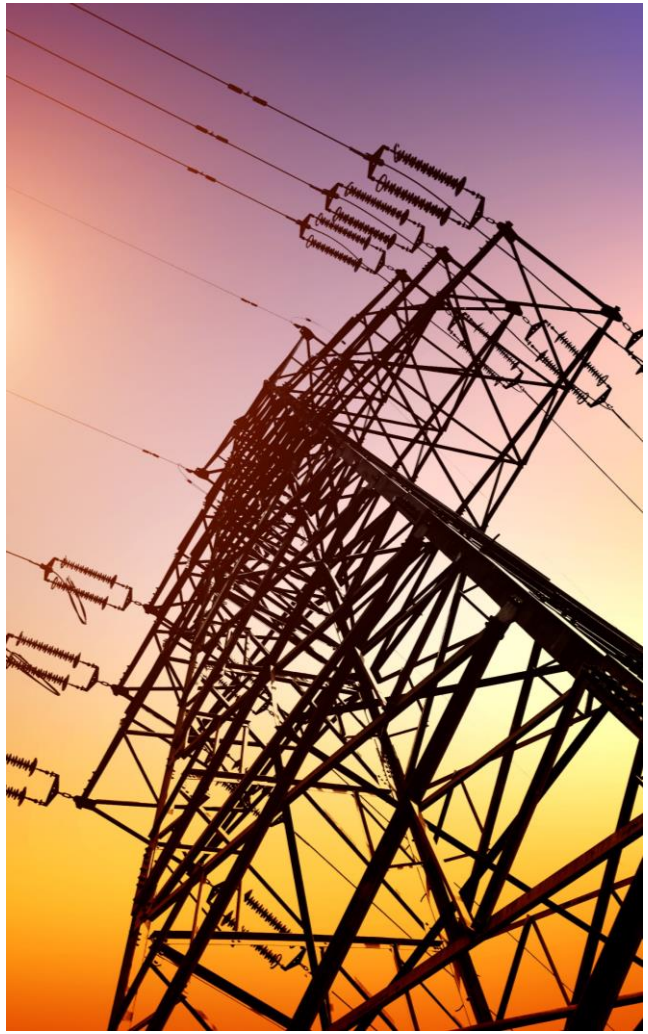
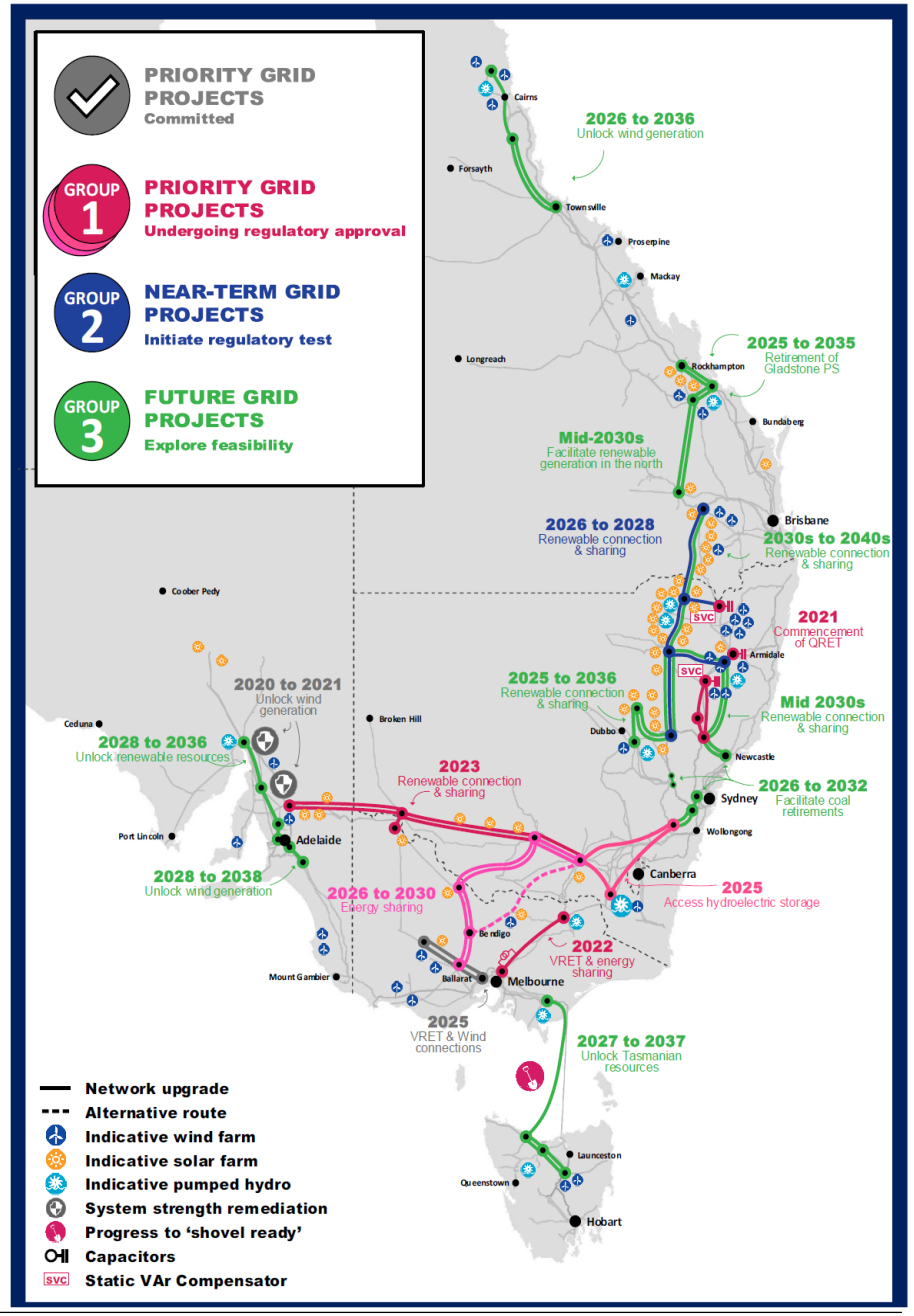
Expanding the networks



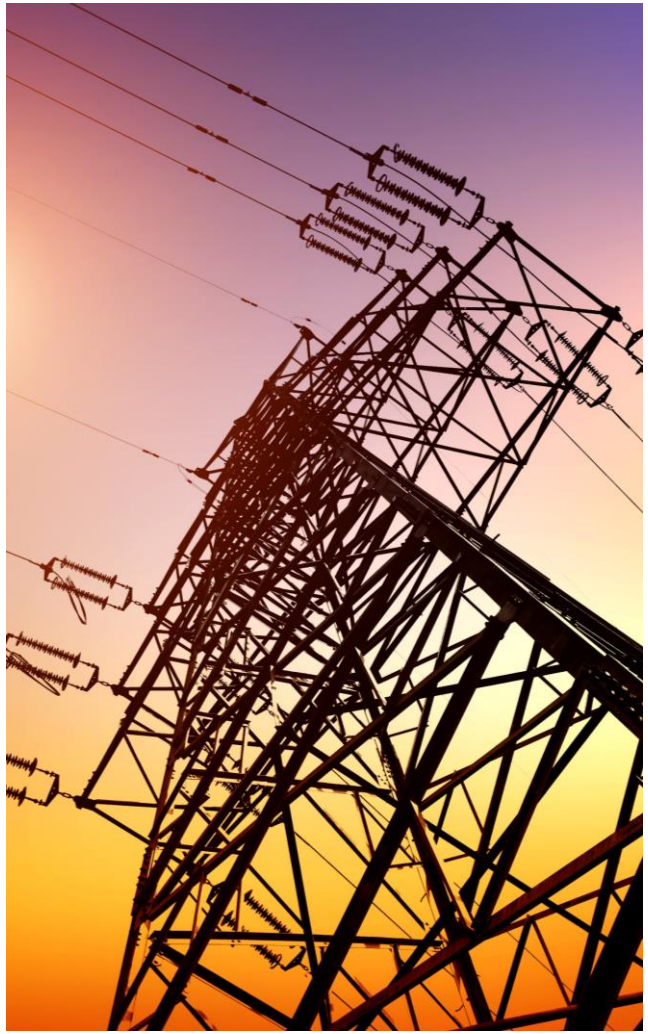
Transmission

- Big investment in transmission capacity is required – Integrated System Plan
- Costs will ultimately flow to consumers, except if States or Cth put on their balance sheet.
- NSW and Victoria have lost faith in speed of change. Going on their own path for most urgent system investments.



Source: Draft 2020 Integrated System Plan

Expanding the networks

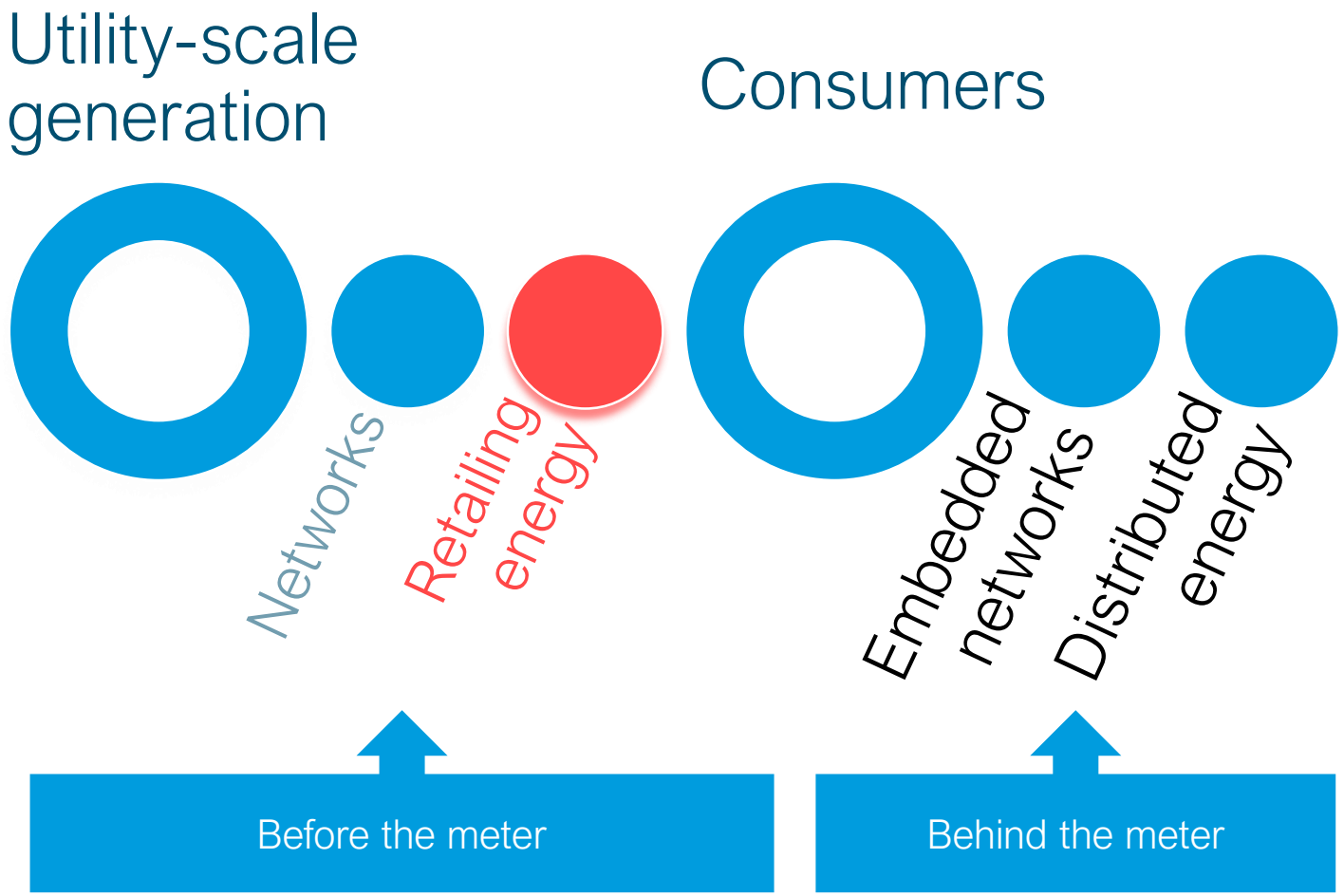


Distribution

- Increasingly a two-way transportation system
- Accepting and forecasting roof-top solar generation is a challenge, and the focus of regulatory review. Expect greater data obligations for rooftop solar/distribute generation.

Private networks

- Emerging issue to support the circular economy
- Avoiding legacy network costs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Retail reforms

Government has intervened to protect consumers from their own failure to act in their own interests

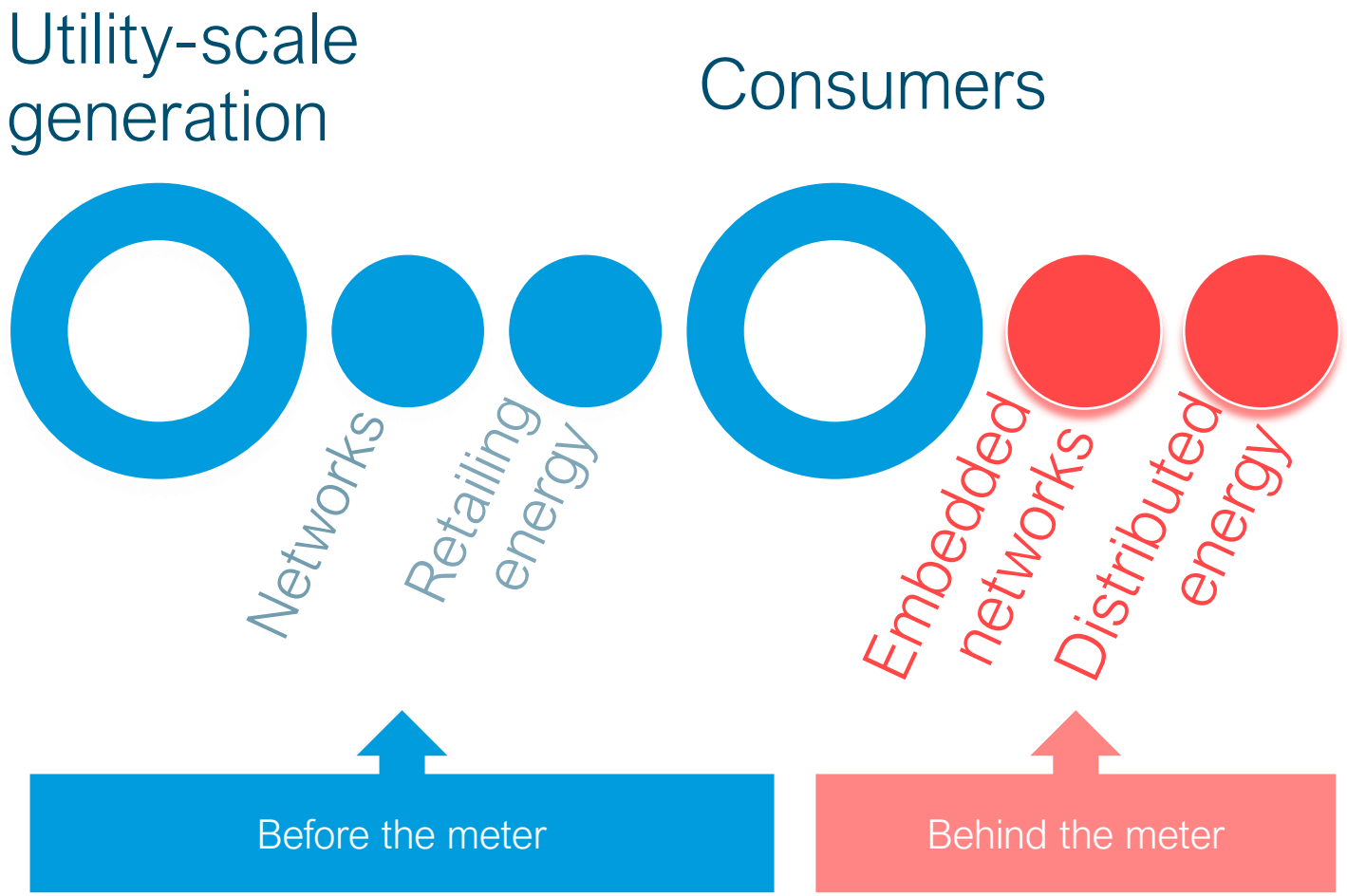
- Default pricing offer
- Caps on late payment fees

Sophisticated buyers are avoiding the retailer, or demanding more market facing pricing

- Corporate PPAs
- ‘Sleeved’ retail products
- Both products need active management by experienced personnel. Not set & forget.

Customer Data Right

- Energy industry is 2nd in line (after banking)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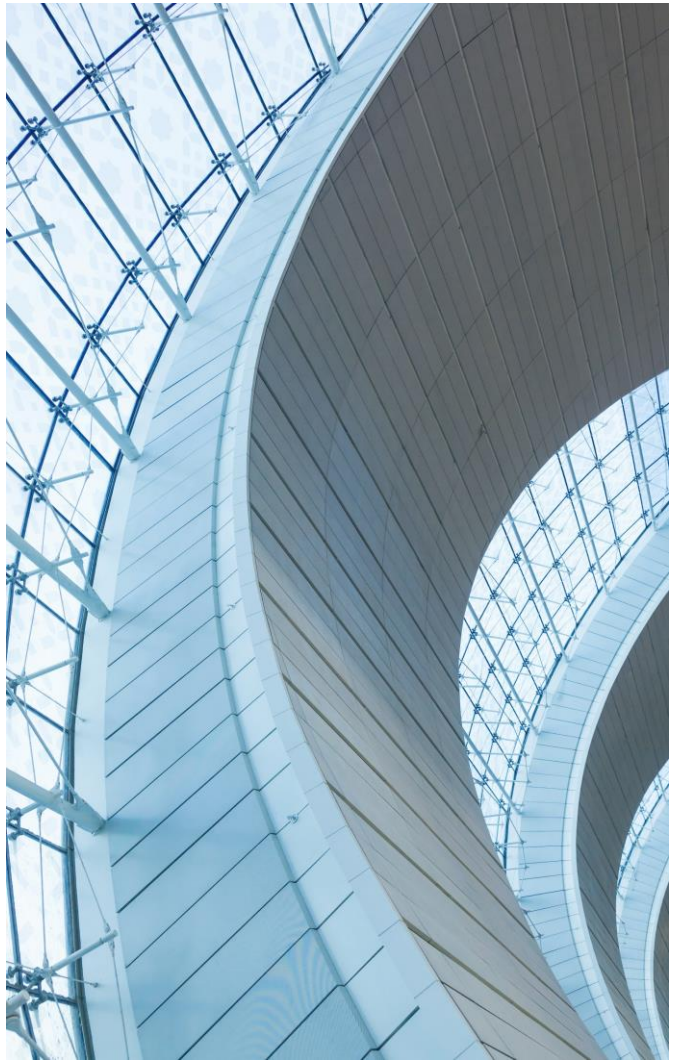


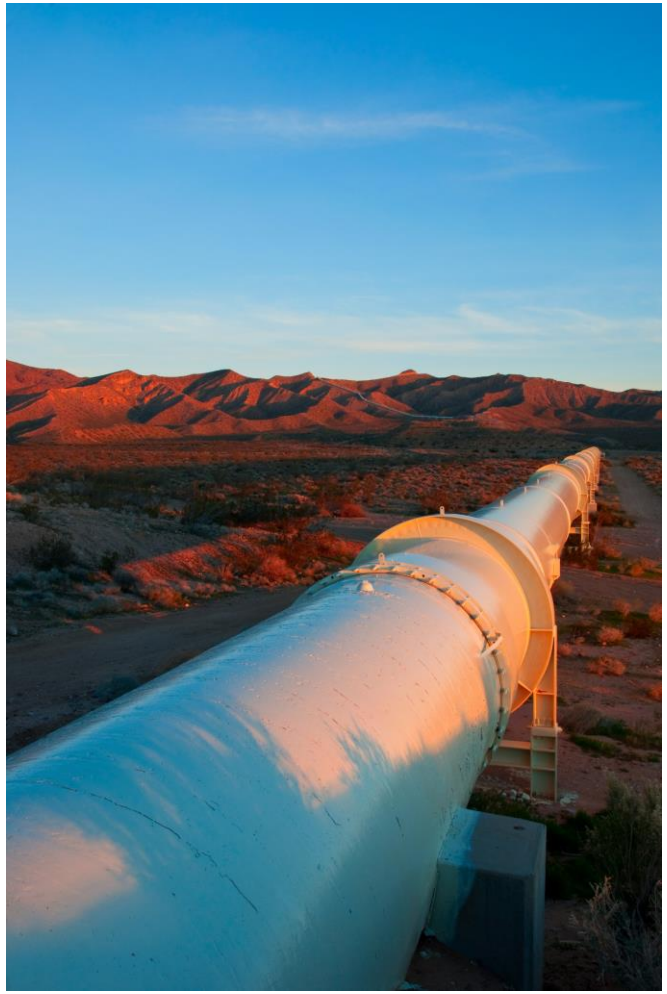
Embedded network reforms

- Owners/operators of embedded networks will be regulated as ‘boutique’ energy retailers and energy distributors:
  - Off-market retailer and embedded network service provider
  - Grandfathering much more limited than originally envisaged
  - Could commence as early as mid next-year (TBC)

Local generation/Distributed energy resources

- Solar pay-back periods frequently support capital investment, but batteries still have some way to go.
- Property owners have to juggle capital costs against:
  - Tenant roll-over
  - Requirements of property legislation (eg retail leases, retirement village Acts)
- Peer2Peer trading is still not easy under existing energy laws.

Gas



Reducing the cost of domestic gas

- Federal funding is being provided only to States that open up new sources of domestic gas (offshore, onshore, LNG import).
- Putting pressure on States with onshore gas moratoriums
- Requiring new gas fields to be opened *only* to the domestic market

Greater pricing transparency and open markets

- Gas Bulletin Board
- Wholesale trading hubs (Wallumbilla, Moomba)
- Pipeline capacity trading reforms
- But there may be more to come ..

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