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Recent developments and current issues in  
Australian Competition Tribunal practice &  
procedure

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P Gray, Victorian Bar

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# Focus of presentation

- Focus on “limited merits review” by the Tribunal of decisions of the AER under:
    - National Electricity Law (NEL) Part 6 Division 3A Subdivision 2
    - National Gas Law (NGL) Chapter 8 Part 5 Division 2
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## Review model – MCE policy choices

- time limits
  - leave requirement
  - restrictions on material & submissions
  - grounds of review
  - costs
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# Framework of procedural provisions

- CCA - s 44ZZR & Part IX Division 2 (in part)
  - CC Regulations
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## Troubleshooting re:

- Leave to apply for review
  - Intervention
  - Restrictions on raising grounds and issues
    - Applicants and interveners
    - AER
  - Evidentiary restrictions
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## Recent/current issues re:

- Confidential information
  - Statements of agreed facts
  - Extrinsic material
  - Determinations by the Tribunal
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## Effectiveness of practice & procedure in promoting MCE policy goals?

- time limits
  - leave requirement
  - restrictions on material & submissions
  - grounds of review
  - costs
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