



Energy Retailers Association
of Australia Incorporated

11 August 2008

Dr Michael Keating AC
Chairman
Independent Pricing and Regulatory
Tribunal of New South Wales
PO Box Q290
QVB Post Office NSW 1230

Dear Dr Keating

RE : Review of Regulated Retail Tariffs and Charges for Electricity 2010-2013

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments to the 'Review of Regulated Retail Tariffs and Charges for Electricity 2010-2013 Issues Paper(The Paper)'.

The Association holds the view that the on-going regulation of retail energy prices for small customers, and the cross subsidies that it introduces between customer classes, stifles innovation and therefore reduce the overall competition in the NSW market. The ERAA recognises the importance of dealing with energy affordability and highlights how retailers now provide comprehensive hardship programs to assist vulnerable customers. The Association maintains however that there is no justifiable link between price regulation and consumer protection, and that well targeted and transparent community service obligations are the most effective way of assisting those customers in genuine financial hardship, while not distorting the market.

In providing comments to this paper, the submission has been broken down into the following sections:

- Retail Competition
- Introduction of the Carbon Pollution Reduction Scheme
- Other issues

Retail Competition

The ERAA fundamentally believes that there has been an erosion of competition in the NSW retail electricity market since the release of the 2007-10 price determination for regulated electricity retail tariffs and charges. As such the ERAA is of the view that

the Tribunal did not achieve the following criteria and objectives that were established as part of the 2007-10 price determination¹:

- Ensuring that standard retailers charge prices that are at cost reflective levels by 2010 in order to provide regulatory protection to small retail customers;
- Facilitating the development of effective retail competition for small retail customers; and,
- Taking account of the “Government’s policy aim to reduce customer’s reliance on regulated tariffs”

The ERAA is of the view that the Tribunal did not adequately allow for the considerable volatility in the National Electricity Market in 2007 brought on the impact of the drought and as such provided an insufficient wholesale cost allowance in the 2007-10 determination. The Association maintains the strong view that no regulatory process is ever going to be able to accurately forecast a market as evidenced by the events in the NSW wholesale market in June 2007 where quarterly volume weighted average prices since market start averaged \$147 per MWh across the month.² As such the ERAA maintains that electricity prices in NSW should not be regulated. Where prices are regulated the ERAA believes that ultimately there are far more risks for the market in under estimating the wholesale cost allowance than overestimating the allowance as competitive pressure among retailers both in NSW and in other markets would immediately drive down prices.

The Association maintains that the insufficient wholesale allowance has acted as a significant barrier to both the entry of new retailers and the acquisition and retention of customers by second tier retailers. Along with the Tribunal’s own findings outlined in the Paper, the ERAA has collated the attached confidential data on customer losses since the introduction of the 2007 to 2010 price determination.³ The ERAA also believes that there has not been a demonstrable reduction in the reliance on regulated tariffs. This is demonstrated in the Tribunal own data which shows that the reliance on the regulated tariffs has not fallen as much under the 2007-2010 price determination as it did under the 2004-2007 price determination.⁴

Introduction of the Carbon Pollution Reduction Scheme

While the current proposal by the Federal Government to introduce a Carbon Pollution Reduction Scheme (CPRS) from July 2011 appears to be progressing, there still remains considerable detail to be finalised in order to provide participants within the energy market the necessary certainty about future obligations and cost impacts. The CPRS, through the impact it will have on generator merit order, generator fuel costs and the likelihood of generator failure will create a market environment for retailers characterised by volatility and uncertainty. Moreover the advent of an immature carbon market subject to volatility, which in turn increases wholesale market volatility, will significantly complicate the task of regulators in

¹ IPART, “Promoting Retail Competition and Investment in the NSW Electricity Industry: Regulated Electricity Retail Tariffs and Charges for Small Customers 2007 to 2010: Final Report and Final Determination,” June 2007, p.15

² Australian Energy Regulator, see

<http://www.aer.gov.au/content/index.phtml/tag/MarketSnapshotLongTermAnalysis/fromItemId/722740>

³ IPART “Review of Regulated Retail Tariffs and Charges for Electricity 2010 -2013: Electricity Issues Paper,” July 2009, p.23

⁴ *Ibid*

setting retail price caps. If the retail sector is to remain financially viable and competitive during this transitional period it will be of utmost importance that retailers have the ability to pass these costs associated with the CPRS through to end customers.

While uncertainty exists in relation to the cost impacts on retailers of the CPRS, recent discussions within both the Ministerial Council on Energy and the Council of Australian Governments will ensure there is greater certainty with respect to the passing through of carbon costs to end use customers. At the most recent meeting of the MCE it was agreed that in those jurisdictions which maintain price regulation retailers will have the ability to pass through the cost of carbon to end customers. While the ERAA's policy position continues to be that the best way to ensure cost reflective pricing - and therefore full pass through of the CPRS - is to remove price regulation, we are mindful of the fact that many jurisdictions, including New South Wales, remain committed to retail price regulation for a timeframe beyond the likely start of the CPRS.

The ERAA believes that any regulated price path which coincides with the introduction of the CPRS will be impacted by the volatility and therefore must contain the opportunity to reopen pricing decisions in special circumstances. The ERAA maintains that such flexibility in the determining of retail energy prices by jurisdictional regulators will be important, given that there will be a greater potential for retailers to be placed under severe financial pressure.

In providing these comments a copy of a report prepared for the ERAA by Farrier Swier Consulting –“ Managing CPRS Transition: implications for electricity retail price regulation” has been attached. The report provides a detailed analysis of the potential impact of the CPRS on the wholesale electricity market, an overview of the uncertainties that currently exist, impacts on price forecasts, generators and hedging arrangements, and how this translates to difficulties at the retail price level. The ERAA would ask that consideration be given to the content and arguments outlined in this paper as part of the Tribunal’s review.

Other issues

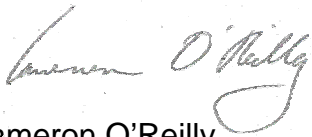
The ERAA remains concerned by both the direct and indirect costs which retailers will have to recoup from customers as result to the growing list of schemes which retailer will have to administer. The ERAA believes that the Tribunal must allow retailers to pass through the costs of the following schemes under the 2010-2013 price determination to ensure the continued development of competition in the NSW retail energy market:

- CPRS
- The Mandatory Renewable Energy Target
- NSW Energy Savings Scheme
- Smart Metering
- NSW Solar Feed In Tariff

Finally the ERAA is firmly of the view that the determination of costs associated with the NSW distribution and transmission networks must not be linked with the 2010-2013 retail price determination. These are fundamentally different costs associated with different parts of the electricity supply chain that are equally necessary to ensure electricity is supplied in a reliable and cost effective manner.

Should you require any further information in relation to this matter please feel free to contact me on (02) 9437 6180.

Yours sincerely



Cameron O'Reilly
Executive Director
Energy Retailers Association of Australia