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Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235
Ref: EMO 0004/3
By email: submissions@aemc.gov.au

Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia – Second Draft Report

The Energy Supply Association of Australia (esaa) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia – Second Draft Report (the draft report).

esaa is the peak industry body for the stationary energy sector in Australia and represents the policy positions of the Chief Executives of over 40 electricity and downstream natural gas businesses. These businesses own and operate more than \$120 billion in assets, employ 49,000 people and contribute \$14.5 billion directly to the nation's Gross Domestic Product.

esaa fully supports the AEMC's findings that retail competition in electricity and gas markets is effective and that price regulation should be removed in South Australia (SA). esaa agrees with the draft report's conclusion that continuing to regulate prices in a competitive market, such as SA, will only serve to 'distort price signals, impede competition and undermine the viability of retailers.' Given this conclusion, the Association believes that deregulation should occur as soon as practical, it should not be deferred until the end of the current price determination periods as recommended in the draft report.

esaa notes that in providing advice to the Ministerial Council on Energy (MCE) on the phase out of price regulation, the AEMC proposes to introduce similar price monitoring mechanisms and conditional reserve price powers to those implemented in Victoria. esaa considers that introducing such measures in a demonstrably competitive market adds unnecessary costs and importantly may create overlap with proposed arrangements under the National Energy Customer Framework (NECF).

With respect to retailer of last resort (RoLR) arrangements for gas in SA, esaa suggests that the AEMC should recommend that this be evaluated by the MCE Retail Policy Working Group to ensure consistency with the proposed national RoLR framework.

AEMC Recommendations

The draft report makes a number of recommendations, including:

- Removing price regulation on standing contracts by no later than the expiration of current price determinations (30 December 2010 for electricity and 30 June 2011 for Gas);
- Extension of the Energy Price Disclosure Code to standing and default contracts and requiring retailers to determine, publish and publicly notify via newspaper any changes to standing and default tariffs;
- Implementing a price monitoring and reporting framework for standing contract and default contract prices for three years;
- Introducing a conditional statutory power for the SA Government to re-introduce price regulation should competition be found no longer to be effective by the AEMC;
- Developing a consumer awareness and education program on the phase out of retail price regulation; and
- Introducing a Retailer of Last Resort scheme for gas.

Timeframe for removal of price regulation

esaa supports the removal of retail price regulation, however we are concerned about the unnecessary delay in the proposed timeframe. The AEMC¹ has previously identified that the inflexibility of price regulation is preventing the efficient pass through of energy costs to consumers and placing increased pressure on retailer margins and viability and undermining competitive market outcomes. The introduction of the Federal Government's proposed Carbon Pollution Reduction Scheme (CPRS) in 2010 is likely to exacerbate this trend.

Now that effective competition in SA has been conclusively demonstrated by the AEMC, retail prices should be deregulated as soon as practical and certainly before the end of 2009.

Removing price regulation in a timely manner would not only ensure the ongoing viability of energy retailers and supply reliability in SA, but would also allow the efficient pass through of the price signals generated by the CPRS. esaa notes that efficient pass through of carbon costs to consumers will be vital to achieving national climate change mitigation objectives.

The current price paths for regulated electricity and gas tariffs in SA would not see price regulation removed until the end of 2010 and midway through 2011 respectively. The AEMC should recommend that these paths are revised to at least ensure full price deregulation occurs prior to the commencement of the CPRS.

¹ AEMC (July 2008) Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia – First Draft Report

Price Monitoring and Reporting Framework

The draft report proposes a price monitoring and reporting framework initially operating for a three year period and subject to AEMC review after this time. The published retailer standing offer and default contract tariffs would form the basis of a half-yearly monitoring report prepared by ESCOSA. If significant deterioration of competition is observed, the SA government would have the power to request the AEMC to undertake another competition review. If competition was found to be no longer effective, ESCOSA would have its powers to regulate prices reinstated.

esaa notes that the above arrangements are modelled on those proposed by the AEMC in the Victorian Review of retail competition. The AEMC cites a similar rationale for implementing price oversight – specifically that it provides a safeguard for those consumers previously on regulated contracts who may not be aware they have been transferred to a standing contract. Further, in the AEMC's view, such pricing oversight will provide greater transparency and accountability and form a basis for further review by the AEMC.

In its submission to the Victorian review, esaa considered there was no need for price monitoring in a market where competition has been found to be fully effective and substantial transparency and consumer protection arrangements already exist. esaa maintains that the competitive tension delivered by openly competitive markets serves to discipline the price and service offering of retailers without the need for additional regulatory oversight. The application of price monitoring measures only serves to undermine the conclusion of effective competition and impose unnecessary reporting and monitoring costs on retailers and the regulator which are ultimately borne by consumers.

Further, esaa considers that the proposed national framework for the regulation of energy retail services to customers (known as the National Energy Customer Framework) will address the concerns raised by the AEMC by introducing a comprehensive, consistent and transparent set of regulatory arrangements for consumer protection and price disclosure. The implementation of the NECF will remove the need for further price oversight mechanisms at the jurisdictional level.

For example, the NECF policy response paper released by the MCE Standing Committee of Officials earlier this year recommends that the National Electricity Law contain provisions requiring retailers to publish and notify of any changes to tariffs for their standard retail contracts on the Australian Energy Regulator's website no more frequently than every six months². esaa is concerned that the price disclosure measures proposed by the AEMC will result in overlap with those being developed as part of the NECF and increase the regulatory burden for retailers.

² MCE SCO (July 2008) A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers – Policy Response Paper. Available from <http://www.mce.gov.au/assets/documents/mceinternet/MCE%5FSCO%5FNational%5FFramework20080613111731%2Epdf>

Gas Retailer of Last Resort (RoLR)

The draft report recommends that a gas RoLR scheme should be implemented as a priority in SA to minimise the risks faced by both energy consumers and businesses in the event of an unplanned retailer exit. esaa notes that the MCE Retail Policy Working Group (RPWG) is currently considering arrangements for a National RoLR scheme to be implemented as part of the NECF. esaa considers the issue of whether interim gas RoLR arrangements might be necessary in SA should be evaluated as part of the RPWG process to ensure consistency with the national RoLR framework.

In summary, esaa fully supports the removal of retail price regulation in South Australia. The Association encourages the AEMC to reconsider the need for a price monitoring and reporting regime given the proven effectiveness of competition in South Australia and the development of consistent and transparent national retail regulatory framework. The AEMC should recommend that regulated price paths are revised to at least ensure full price deregulation occurs prior to the commencement of the CPRS. In addition, the AEMC should ensure any arrangements for a gas RoLR are consistent with the proposed national RoLR framework.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brad Page', with a stylized flourish at the end.

Brad Page
Chief Executive Officer