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**Government
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Dr John Tamblyn
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Australian Energy Market Commission
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Dear Dr Tamblyn

Thank you for your letter of 4 October 2007, in which you provide a copy of the preliminary findings of the review of the effectiveness of retail competition in the Victorian electricity and gas markets.

I do not propose to comment on issues and findings that are specific to Victoria. Rather, this submission concentrates on those matters pertinent to the overall approach that may set a precedent for future reviews, noting that the AEMC is due to undertake a similar review for South Australia in 2008.

Whilst the AEMC has provided a detailed report there would appear to be some gaps in the analysis, and areas where the evidence does not unambiguously support the conclusions reached. The AEMC has the important task of determining whether a market has achieved effective competition, which is a step above gathering evidence that a market is developing well.

In its April 2007 Statement of Approach, the AEMC advised that it would examine market concentration indices and noted the availability of a number of economic tools for assessing the likely impact the number of firms and their market shares has on the competitive nature of a market. I would therefore have expected analysis along the lines of the top four-firm concentration ratio analysis, which would be performed by the Australian Competition and Consumer Commission (ACCC) in its market assessment for purposes of merger applications. I can see no evidence in the First Draft Report of such analysis having been performed.

The AEMC has concluded that the gas retail market is effectively competitive, although less than electricity. The AEMC's conclusion that the gas retail market is competitive also relies in part on evidence of retailers in the electricity market pursuing opportunities to secure gas customers in conjunction with marketing electricity, given the limited availability of gas only offers. This raises the general question as to what degree a market is sufficiently effectively competitive to enable consideration of the removal of price controls.

There is also an issue as to the extent that a call can be made at a point in time on the degree of competitive effectiveness which relies in part on an expectation of future developments. For example, the AEMC's view on the degree of gas retail market competitive effectiveness appears to rely in part on the expectation that access to wholesale gas products will continue to improve.

It is the State Government's view that more evidence would need to be presented as part of future reports to support a conclusion that rivalry between retailers was sufficiently strong, along the following lines:

- the level of, and changes in, the number and market shares (both customer numbers and energy volumes) of each electricity and gas retailer since the introduction of full retail contestability;
- the level of, and changes in, the market concentration of the electricity and gas retail markets since the introduction of full retail contestability;
- standing-offer and market-contract retail energy prices since the introduction of full retail contestability; and
- the nature of, and changes in, differentiated and innovative products and services being offered in the electricity and gas retail markets.

This additional evidence would draw out the extent that new entrant retailers were competing amongst themselves, rather than just against the regulated standing contract of the incumbent retailer.

It is also important that customers have an understanding of the retail offers available and are engaged in the process. The evidence in the AEMC's First Draft Report could be seen to indicate that customers generally appear only to respond to direct advances from retailers and accept the information provided to them by the retailer.

Whilst the South Australian Government looks forward to effectively competitive energy markets occurring around Australia, it is important that the evidence be unambiguous that such markets exist, rather than providing further evidence that markets are continuing to develop.

I thank you for the opportunity to comment as part of this consultation process and I look forward to the release of future reports on this issue.

Should your officers wish to discuss any element of this submission further, please contact Mr Kym Jervois, Director, Retail and Demand Management, Energy Division on 8204 1669.

Yours sincerely



HON PATRICK CONLON MP
MINISTER FOR ENERGY

5 November 2007