

28 February 2014

Mr John Pierce
Chairman
Australian Energy Market Commission
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Dear Mr Pierce

Submission in response to the Approach Paper: 2014 Retail Competition Review [AEMC Reference: RPR002]

Thank you for the opportunity to comment on the Approach Paper published on 17 January 2014 which commenced the Australian Energy Market Commission's (AEMC's) 2014 Retail Competition Review.

ActewAGL Retail (ActewAGL) provides electricity and natural gas (gas) retail services in the Australian Capital Territory (ACT) and in South East New South Wales. In the ACT, ActewAGL is required to offer a Standing Offer for gas and/or electricity through a standard retail contract. The Standing Offer for electricity is required to incorporate a tariff approved by the Independent Competition and Regulatory Commission (ICRC) to electricity customers who consume less than 100 MWh per year. ActewAGL is the Regulated Offer retailer for the supply of gas in New South Wales for the Queanbeyan, Palerang, Capital and Shoalhaven regions and offers a Regulated Offer under a Voluntary Pricing Arrangement agreed with the Independent Pricing and Regulatory Tribunal of New South Wales. ActewAGL also offers market retail contracts to small customers in its focus regions.

This submission provides a summary of ActewAGL's issues for this review, complementing the detailed information ActewAGL has already provided as part of the interview and survey process.

Effective competition

Competition in the retail electricity and gas markets in the ACT and New South Wales is effective. The effectiveness can be demonstrated by an assessment of the criteria listed in the terms of reference:

- *Independent rivalry within the market.* In the ACT and New South Wales there are 40 electricity and 16 gas retailers with AER authorisation¹ who are either active in the market or positioned to enter. Retailers are competing in a variety of ways and delivering a range of competitive offers to customers.
- *The ability of suppliers to enter the market.* There are low barriers to entry and expansion in the ACT and NSW residential market. The introduction of the National Energy Customer Framework (NECF) in the ACT and in New South Wales, on 1 July 2012 and 1 July 2013 respectively, has further lowered barriers to entry as retailers will only require one license authorisation to sell gas or electricity in all NECF jurisdictions.

- *The exercise of market choice by customers.* In New South Wales, research indicates that customers have a high degree of awareness of their ability to choose an energy retailer.² ActewAGL's experience is that awareness of market choice has increased in the ACT since Roy Morgan Research's 2010 survey, which found that most participants were aware they have a choice of electricity supplier,³ following recent media attention and campaigns such as One Big Switch.
- *Differentiated products and services.* ActewAGL is competing on price, offering customers the choice to bundle energy and telecommunication services, and non-price terms, through involvement in sponsorships, fundraising, events and philanthropy to support the community.
- *Price and profit margins.* Customers are being offered competitively priced products. ActewAGL also offers discounts to customers who sign up online or pay bills on time. However, the regulated retail price in the ACT is not fully cost reflective.⁴
- *Customer switching behaviour.* In 2013, New South Wales was ranked the 4th most active retail energy market in the world.⁵ Although switching behaviour in the ACT is not as high, this is likely due to ActewAGL regularly delivering the highest levels of satisfaction of all electricity and gas retailers. ActewAGL has won gas provider of the year for 2013, 2012 and 2011 and electricity provider of the year for 2012 in the Roy Morgan Research annual customer satisfaction awards.⁶

As the AEMC has noted, many different combinations of structural and performance based characteristics correspond with effective competition, which provides for efficiency and protection of energy consumers in terms of price and service.⁷

ActewAGL considers that an over emphasis on measures such as switching between retailers (which does not incorporate switches between offers with the same retailer) and market shares can lead to an under assessment of the effectiveness of competition. More weight should be given to evidence of market outcomes rather than evidence of competitive market characteristics. In the ACT, ActewAGL retains a large market share but this is a result of continuing significant investment in the community and delivering the highest levels of customer satisfaction in Australia. As the Australian Energy Regulator's (AER) Annual Report on the performance of the retail energy market shows, ActewAGL has the lowest residential complaint rate of all retailers operating in NECF jurisdictions.⁸

Removal of retail price regulation

ActewAGL has long considered competition in both the ACT Electricity and NSW Gas markets to be effective and has supported the removal of retail price regulation in both jurisdictions and markets.⁹

The potential benefits to consumers from improving competition through the removal of price controls are widely recognised by a variety of public advisory bodies including the Australian Government's Department of Resources, Energy and Tourism, the AEMC and the Productivity Commission. ActewAGL agrees with the 2012 Energy White Paper that removing regulated tariffs has a "greater potential to accelerate and deepen competition and innovation" leading to a wider range of services and products.¹⁰ As IPART notes, "a well-functioning competitive market can provide more effective customer protection and better customer outcomes than price regulation".¹¹

Retaining price regulation would mean the unnecessary continuation of its inherent risks. The AEMC noted in its review of competition in the ACT that:

“...regulated prices are almost always imperfect substitutes for prices determined by the competitive processes of a market. Notably, when setting prices, regulators are constrained by both imperfect information and the frequency in determinations. As a result, there is a risk that retailers get stuck (that is, having made investments to acquire customers) providing retail services to recover those investments at prices that do not accurately reflect their costs.”¹²

Price surveillance or monitoring

ActewAGL considers, and the AEMC has agreed, that “any price surveillance or monitoring regime must be designed in a way that does not impose unreasonable regulatory risk, burden or uncertainty”.¹³ Further, any such program must be predictable and transparent, particularly in relation to the nature and extent of regulatory oversight and the potential re-introduction of price regulation.

Consultation and transparency

The AEMC has indicated that it will not be consulting with stakeholders on the Draft Report. This approach is inconsistent with the AEMC’s previous conclusion that:

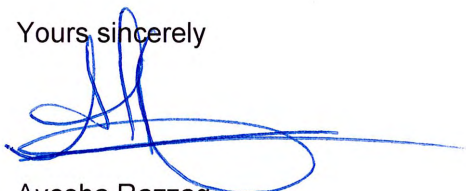
...well designed procedural requirements assist in ensuring that the regulator administers the regulatory regime in an appropriate manner. This includes providing opportunities for regulated businesses and interested stakeholders to make submissions to the regulator and the opportunity for full and thorough analysis of the submissions and the regulator’s decisions (including draft decisions). Transparent decision making in this way is conducive to reducing regulatory risk, and the probability of error and decreasing the administrative costs of regulation.¹⁴

ActewAGL considers that the AEMC should provide opportunities for all stakeholders to lodge submissions on the Draft Report. ActewAGL also notes that the AEMC has not made either its Draft Report or comments provided by jurisdictions or jurisdictional regulators publically available on its website in relation to its Advice on Best Practice Retail Price Regulation Methodology. ActewAGL does not support this approach for reasons the AEMC itself has previously noted:

It is essential that there is a degree of transparency surrounding the contents of all submissions considered by the AER in the course of making its decision, and the opportunity for comments contained in submissions ... are able to be responded to.¹⁵

ActewAGL looks forward to continuing to work with the AEMC throughout this review. Please contact Leanne Holmes, Manager Economic Regulation, on 0412 850 715 if you would like to discuss this submission.

Yours sincerely



Ayesha Razzaq

General Manager Retail

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- ¹ AER 2014, *Energy Retailer Authorisation* <<http://www.aer.gov.au/taxonomy/term/351>>, viewed 20 February 2014.
- ² Roy Morgan Research 2013, *Survey of Residential Customers of Electricity and Natural Gas in New South Wales: Effectiveness of Retail Competition*, p.9
- ³ Roy Morgan Research 2010, *Effectiveness of Competition in the ACT Electricity Market: A Qualitative Study of Domestic and Business Consumers*, p.1
- ⁴ ActewAGL 2014, *Response to the ICRC Issues paper – retail prices for franchise customers from 1 July 2014*, p.20
- ⁵ VaasaETT 2013, *The most active energy markets in 2013 revealed*, media release, 16 December
- ⁶ Roy Morgan Research 2014, *Roy Morgan Research Customer Satisfaction Awards 2012*, viewed 20 February 2014 <<http://www.roymorganonlinestore.com/Awards.aspx?month=13&year=2012&country=01>>
- ⁷ AEMC 2009, *Review of the Effectiveness of Competition in the ACT Electricity Market*, Revised Statement of Approach, p.6
- ⁸ AER 2014, *Revised Annual Report on the Performance of the Retail Energy Market*, p.18
- ⁹ ActewAGL 2010, *ActewAGL Retail response to AEMC Issues Paper*, p.1
- ActewAGL 2007, *Response to Draft Voluntary Transitional Pricing Agreements released by IPART*, p.1
- ¹⁰ Department of Resources, Energy and Tourism 2012, *Energy White Paper*, p.160
- ¹¹ IPART 2012, *Issues Paper: Review of regulated retail prices and charges for gas, 2013 to 2016*, p.30
- ¹² AEMC 2011, *Stage 2 Final Report: Review of the effectiveness of competition in the electricity retail market in the ACT*, p.49
- ¹³ AEMC 2011, *Stage 2 Final Report: Review of the effectiveness of competition in the electricity retail market in the ACT*, p.59
- ¹⁴ AEMC 2006, *National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006 No.18*, Rule Determination, p.33
- ¹⁵ AEMC 2006, *National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006 No.18*, Rule Determination, p.121