

24th May 2011

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce,

RULE CHANGE FOR LIMITING GENERATOR MARKET POWER, YOUR REF ERC 0123

Kimberly Clark Australia (KCA) is one of the ten largest users of electricity in South Australia. KCA is also a significant user of electricity in NSW.

Historically KCA has accessed its electricity supplies through retailers. During its tender processes, KCA used to experience strong competition amongst retailers for its load and saw that the retail prices offered were reflective of the cost of generation needed to match its load profile.

In early 2009, KCA saw the competition amongst retailers for the KCA business fall significantly accompanied with very large increases in the prices offered. The prices offered were significantly above the cost of electricity generation and reflected more the regional spot price rises KCA saw in years 2007, 2008 and 2009. In its negotiations for a new supply contract in 2009, KCA was made retail offers that were commercially unacceptable. KCA is an energy intensive trade exposed manufacturer and was not able to either pass on these large increases to its customers nor was it able to absorb them. To remain commercially viable, in 2010 KCA decided to source its electricity supplies from the spot market and load shed when the spot prices were high. This means that KCA has to significantly curtail its operations on a frequent basis causing disruption and loss in production accompanied by increased operational costs. This has reduced the efficiency of the KCA operations.

On investigation, KCA identified that electricity price rises in the SA regional market were a result of an increased number of very high price events in the SA regional market. We identified that many of these high prices were not the result of a shortage of generation which high prices are intended to signal, but caused by a particular generator which was able at times to reduce its output and concurrently significantly increase its revenue because it was no longer constrained in its pricing by competition. We have seen that our investigations have been vindicated by the AER in their recent State of the Energy Markets reports.

We saw that in early 2010, the same generator was still using its market power to raise the spot price and in early 2011 we saw a different SA based generator exercise its market power to raise prices in the SA region indicating that the issue has not disappeared and is ubiquitous.

...2/

24th May 2011

Page 2

Because of its experiences in SA, KCA has also looked at the potential for the exercise of market power by generators in NSW, and was concerned that similar unnecessarily high spot prices in that region had resulted over a number of years. This showed that exercise of market power is not an isolated issue for SA but endemic in the electricity market. With the sale of the NSW retailers and the sale of control of some NSW government generation to new NSW retailers, KCA is concerned that exercise of market power by generators in NSW will be increased.

KCA is a member of the Pulp and Paper Industry Strategy Group (which includes government, unions and businesses) and one of the recommendations made in a report (available at <http://www.innovation.gov.au/Industry/PulpandPaper/PPIIC/Pages/PulpandPaperIndustryStrategyGroupFinalReport.aspx>) by the Group (Recommendation 17a) points out that there are instances in the Electricity Market where large generators with market power are able to exercise this power with impunity when conditions suit and by doing so force consumers to pay more for electricity than they would if there was strong competition.

The direct experiences of KCA in the SA region show that exercise of generator market power has resulted in a reduction in retailer competition and an increase in electricity prices. We strongly support the proposed rule change which aims to reduce the ability of those generators with market power being able to force energy consumers to pay an unnecessary premium for the supply of electricity.

Yours sincerely



Scott Whicker
Manager, Operations – Family Care