

Energy Consumers' Council

12th Floor, Roma Mitchell House
136 North Terrace
ADELAIDE SA 5000

GPO BOX 2969
ADELAIDE SA 5001
DX 154

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Dr Tamblyn

AEMC Review of effectiveness of competition in the electricity and gas retail markets in SA – Submission to Second Draft Report (EMO 0004/3)

Introduction

The Energy Consumers' Council (The Council) welcomes the opportunity to comment on the AEMC Review of effectiveness of competition in the electricity and gas retail markets in South Australia – Second Draft Report.

The Council is a body established by the South Australian Minister for Energy in 2002 to directly provide high level policy advice on energy policy issues, including pricing and the reliability of supplies and services in the South Australian energy sector. The Council reports to the Government on a regular basis, thereby allowing representatives of energy users direct access to the Government and the ability to have a real and practical input into energy policy development.

The Council has been drawn from diverse backgrounds and represents the following groups:

- State Retailers' Association
- Electricity Consumers' Coalition of SA
- Business SA
- South Australia Farmers Federation
- Chamber of Mines and Energy
- The Property Council
- COTA Seniors Voice (formerly Council of the Ageing)
- Consumers Association of South Australia
- South Australia Council for Social Service

Essentially, the Council does not believe that the retail market in South Australia is sufficiently robust and competitive to remove retail price regulation at this point in time. The Council, as determined in its initial submission to this review, believes further encouragement of competition needs to be couched in terms of consumers having the ability to make active choices with a clear and reasoned understanding of those choices.

It is important that I mention that whilst this submission is endorsed by the Council, it may not reflect the views of all Council members. Some Council members may provide a separate submission to this review.

Discussion

Our initial submission stated that we believe there are market structure issues that affect the competitiveness of the electricity and gas retail markets that should be considered in any process of reviewing retail competition.

The Council also believes that there are issues in the marketplace in relation to price trends and access to information. Our initial submission suggested that these issues would need to be comprehensively addressed prior to any decision regarding the competitive nature of the market. The issues raised by the Council in its initial submission are outlined in Attachment A.

The Council is very concerned at the findings of the AEMC and is concerned that the information presented in our submission was not taken into account. The Council retains and reaffirms its view that competition in the South Australian electricity and gas markets is not sufficiently effective to warrant the removal of price regulation.

In addition to the Council's initial written submission, some Council members also made comments during the AEMC's consultation forum of 17 July 2008, in response to the First Draft Report. The Council do not believe that comments made during the forum were adequately dealt with in the First Final Report. For example, the characteristics of oligopoly markets were discussed, and were also mentioned in a written submission from COTA Seniors' Voice and the South Australian Council of Social Services (SACOSS). Yet the issues associated with oligopoly markets, and the associated literature, were dismissed with a single sentence in the AEMC First Final Report.

In considering the Second Draft Report, the Council wishes to restate the issues previously raised with the AEMC, as outlined above, which we do not believe have been adequately addressed. We also wish to respond to two core recommendations (recommendations 1 and 3) from the Second Draft Report.

Recommendation 1

The Council cannot support the AEMC's recommendation that *"the regulation of the standing contract prices should cease by no later than the expiration of the current price determinations"*. There are two main reasons for our objection to this recommendation.

The first is that we do not consider effective competition to apply across South Australian electricity and gas markets. Secondly, the level of uncertainty for future energy prices has increased since the AEMC's review was commenced. New factors that increase the levels of uncertainty for future energy prices include:

- Introduction of a Carbon Pollution Reduction Scheme;
- The global financial market crisis, which will move into 'real markets' creating further financial stress and uncertainty, particularly for low and modest income households;

- Rising energy supply costs through factors including drought and 'peak oil'; and
- Growing international demand for energy, pushing up prices for gas in particular, and so increasing wholesale prices.

The Council contends that it would not be responsible to expose South Australian households to further energy uncertainty, by removing regulation on standing contract prices, given current circumstances. Households need to be confident that there is an independent regulator overseeing prices.

Recommendation 3

This recommendation states that "a conditional statutory power that can be exercised by the South Australian Government to reintroduce retail price regulation should be included in each of the Electricity Act and Gas Act. In accordance with the terms of the AEMA the exercise of the power would be conditional upon a review of competition by the AEMC concluding that competition is no longer effective and recommending the re-introduction of retail price regulation as the appropriate policy response."

There are two clear questions that emerge from this recommendation for the Council. Firstly, why the South Australian Government's ability to exercise the power would be conditional upon a review by the AEMC? Whilst the Council recognises the requirements laid out in the Australian Energy Market Agreement, the Council considers the South Australian Government is best placed to balance the economic and social objectives.

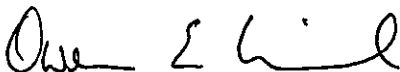
The second question is about what the appropriate "trigger factors" would be that the South Australian Government, or the AEMC, could regard as indicators that "competition is no longer effective"? Here the Second Draft Report lacks sufficient detail.

Summary

The Council believes that, in particular, protection for lower income and other vulnerable households should remain and that the duty of care to the community is a vital factor in consideration of any developments in the market.

The Council recognises that the role of the AEMC is to provide advice to the South Australian Minister for Energy, and is also clear that the decision on the removal of price regulation in South Australia will be a matter for the South Australian Government to decide.

Yours Sincerely



Owen Covick
CHAIRPERSON
Energy Consumers' Council

13 November 2008

Attachment A

The Council's initial submission noted points as follows:

1. Market structure

Barriers to entry

The Council asserts that South Australia currently operates as a duopoly.

Interconnection

Vertically integrated retailers hold a significant advantage in South Australia.

Access to gas

Due to location some consumers may be limited in terms of the number of gas retailers from whom they can obtain supply.

2. Information

Awareness and understanding

Information currently available on the market is exclusory and difficult to understand, this is exacerbated by the belief of customers that they are powerless to influence their energy bills.

Access to information

Compared to other states, a larger percentage of the South Australian population is information poor. This is in part due to low internet saturation and access to in home analysis but also due to limited understanding of the energy market.

3. Price

Price trends

Energy bills have increased by 25-30% since pre-FRC (nominal, since mid 2002).

Standing offer price

Provides a level of protection and limits the ability of the retailer to exploit customers.

4. Other issues

Churn rates

Intervention by the state government to reward switching between retailers in the South Australian market invalidates the use of churn rates as a definitive measure of effectiveness of competition.

Cultural consideration

Some households do not actively question costs or structure of energy bills.

Inset customers

The incidence of shopping centre owners operating as energy retailers, removes access to competition for tenants.

Lower income areas

Differing marketing attempts and potential exclusion of certain lower socio economic areas is leading to lower levels of awareness and understanding of the market.