

8 February 2013

Mr John Pierce
Chairman
Australian Energy Market Commission
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Dear Mr Pierce,

Submission in response to the Issues Paper: Review of Competition in the Retail Electricity and Natural Gas Markets in NSW [AEMC Reference: RPR001]

Thank you for the opportunity to comment on the Issues Paper released on 13 December which commenced the Australian Energy Market Commission's (AEMC) *Review of Competition in the Retail Electricity and Natural Gas Markets in New South Wales*.

ActewAGL is a joint venture formed in 2000 comprising two partnerships, ActewAGL Retail and ActewAGL Distribution. ActewAGL Retail (ActewAGL) provides electricity and natural gas (gas) retail services in the Australian Capital Territory (ACT) and in South East New South Wales (NSW) markets. ActewAGL is the default gas retailer in the Queanbeyan, Palerang, Capital and Shoalhaven regions and has 25,000 gas customers in NSW. These customers account for 20 per cent of ActewAGL's total gas customer base. ActewAGL participates in the NSW electricity retail market as a non-Standard retailer, focussing on customers in the region surrounding the ACT. ActewAGL Distribution owns, plans, develops, constructs and maintains the electricity network in the ACT and gas networks in the ACT and South East NSW.

This submission provides a summary of ActewAGL's key issues for this review and complements the detailed information ActewAGL has already provided as part of the interview process with Sapere Research Group held on 11 December 2012.

Competition in the retail electricity and gas markets in NSW is effective. This effectiveness can be demonstrated by undertaking an assessment of the market against the criteria developed by the Ministerial Council of Energy under clause 14.1.1(a)(i) of the Australian Energy Market Agreement (AEMA). Specifically, there is evidence of:

- *independent rivalry within the market.* In NSW there are eight gas and 11 electricity retailers active in the market and a further three authorised gas and 15 licensed electricity retailers poised 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 structural and strategic barriers to entry and expansion in the large NSW residential market, which consists of 7.3 million people and accounts for 39 per cent and 16 per cent of total national electricity and gas residential consumption. The introduction of the National Energy Customer Framework (NECF) in NSW, on 1 July 2013, will further lower barriers to entry as

retailers will only require one license to sell gas or electricity in all NECF jurisdictions.

- *the exercise of market choice by customers.* In past surveys, the Independent Pricing and Regulatory Tribunal (IPART) has found that over 90 per cent of respondents were aware of their ability to choose their supplier. ActewAGL's experience is that customers are increasingly exercising market choice by responding to retailer offers and seeking counter offers in response. Only 30 per cent of gas customers and 50 per cent of small electricity customers remain on regulated tariffs in NSW.
- *differentiated products and services.* Retailers are competing on price and non-price terms. Some market contracts offer alternative contract terms and incentives such as loyalty program points or the ability to purchase electricity from renewable sources.
- *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.
- *customer switching behaviour.* In 2011, NSW was ranked the 10th most active retail energy market in the world with a switching rate of 11 per cent.¹ More recent data from December 2012 indicates that 14 per cent of gas meters were churned over the previous 12 months and electricity customers are transferring at an annualised rate of 19 per cent.

ActewAGL has long considered the NSW gas market to be competitive and has supported the deregulation of gas retail prices.² IPART, in each regulatory review since 2003, noted that retail gas market competition had either improved or further developed. In its current review of default electricity tariffs, IPART has noted that "small customers are increasingly participating in the competitive market by moving from regulated prices to market contracts" and that within the three year period from June 2009 to June 2012, the number of small retail gas customers on regulated tariffs dropped from 50 % to 30%.³ IPART's preliminary view is that competition in the retail electricity market has increased since 2010.

ActewAGL continues to support price deregulation for the electricity and gas retail markets and notes that NSW remains the only jurisdiction with retail gas price control regulation that is subject to the AEMC's reviews of retail competition effectiveness.

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.⁴ As IPART notes, "a well-functioning competitive market can provide more effective customer protection and better customer outcomes than price regulation".⁵

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."⁶

As highlighted in ActewAGL's November 2012 Pricing Proposal to IPART, as part of its Review of regulated gas retail tariffs and charges 2013 - 2016, there is increased and significant

uncertainty regarding future wholesale gas costs and the price of carbon.⁷ ActewAGL proposed that this uncertainty be dealt with through additional flexibility in the voluntary transitional pricing arrangements. However, ActewAGL's preferred policy outcome is the complete removal of price regulation. This is consistent with the AEMC's view that the introduction of the carbon price would be best addressed by removing regulation, where competition is effective.⁸ ActewAGL's submission noted that the regulatory period, as provided in the Terms of Reference for the regulation of electricity retail prices in NSW, may be terminated earlier at the direction of the Minister. ActewAGL presumes that this could be invoked following an AEMC conclusion that electricity retail competition is effective, and similarly would also apply to the retail gas market if it is found to be effective.

A phased removal of price regulation, with a period of lighter-handed price monitoring or pricing agreements, is one of the policy options identified in the AEMA and recommended by the AEMC in the Victorian, South Australian and ACT competition reviews. ActewAGL considers this option a second best solution compared with price deregulation. Price monitoring may be an unnecessary and costly step in the deregulation process, particularly as transitional regulation has been in place for 11 years. The ACT's regulated retail tariff for gas was removed in 2002 without any transitional measure, such as price 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".⁹ 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.

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

References

- ¹ ERAA 2012, Media Release: *Global report shows Australian energy markets are leading the world*, 14 June
- ² ActewAGL 2007, *Response to Draft Voluntary Transitional Pricing Agreements released by IPART*, p.1
- ³ IPART 2012, *Issues Paper: Review of regulated retail prices and charges for electricity 2013 to 2016*, p.15
- ⁴ Department of Resources, Energy and Tourism 2012, *Energy White Paper*, p.160
- ⁵ IPART 2012, *Issues Paper: Review of regulated retail prices and charges for gas, 2013 to 2016*, p.30
- ⁶ AEMC 2011, *Stage 2 Final Report: Review of the effectiveness of competition in the electricity retail market in the ACT*, p.49
- ⁷ ActewAGL 2013, *Response to IPART Issues Paper: Review of Regulated Retail Tariffs and Charges for Gas 2013 – 2016*, p.4
- ⁸ AEMC 2009, *Final Report: Review of Energy Market Frameworks in light of Climate Change Policies*, p.54
- ⁹ AEMC 2011, *Stage 2 Final Report: Review of the effectiveness of competition in the electricity retail market in the ACT*, p.59