



12 March 2008

Review of Australia's Consumer Policy Framework
Productivity Commission
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Productivity Commission Inquiry into Australia's Consumer Policy Framework – Draft Report

The Energy Supply Association of Australia (esaa) welcomes the opportunity to comment on energy service matters covered in the draft report of the Productivity Commission's (PC) Inquiry into Australia's Consumer Policy Framework.

esaa is the peak industry body for the stationary energy sector in Australia and represents the policy positions of the Chief Executives of over 40 electricity and downstream natural gas businesses. These businesses own and operate some \$110 billion in assets, employ over 40,000 people and contribute \$14.5 billion dollars directly to the nation's Gross Domestic Product.

esaa fully supports the draft report recommendations that directly relate to energy services, specifically:

- **5.3:** A single consumer protection regime for energy services applying to all jurisdictions in the National Electricity Market (NEM).
- **5.4:** Removal of retail price caps following implementation of a single consumer protection regime for energy services.

Welfare of hardship customers should be addressed through transparent community service obligations, supplier-provided hardship programs, or other targeted mechanisms that are monitored regularly for effectiveness.

- **9.2:** Establishing a national energy and water ombudsman that incorporates relevant existing State and Territory Alternative Dispute Resolution bodies.

National Energy-related Consumer Protection and Energy Ombudsman

esaa supports the Commission's discussion and recommendation at pages 93-94 of the draft report for the development and implementation of a single consumer protection regime in energy markets under the auspices of the Ministerial Council on Energy (MCE).

A single national consumer protection regime for energy services will improve outcomes for consumers by reducing energy-related regulatory costs, removing the costs for retailers of complying with differing regional regimes, and creating stronger incentives for more efficient national investment in energy supplies and retail services.

The development of a single national regime for energy services will also provide an opportunity to reduce the unnecessary and costly duplication of general consumer protection laws that characterises many elements of current jurisdictional energy-specific regimes.

Energy-specific regulation for consumer protection is only justified where specific provision is necessary for deemed energy contract formation for consumers that have not entered into an energy market contract, or where general consumer protection arrangements do not specifically provide for any distinguishing characteristics of energy services, such as their essential nature.

The consumer protection arrangements in the Trade Practices Act, and the equivalent jurisdictional Fair Trading Acts, adequately address general retail marketing conduct, and it is presumed that any future national consumer protection regime as recommended in the draft report will provide similar cover.

Disconnection procedures, which are expected to be part of the proposed national energy market retail regulation framework being developed by the MCE, can provide appropriate checks and balances to prevent the costly and harmful disconnection of essential energy services.

The need for energy-specific regulation based on essential service characteristics is reduced substantially as effective competition develops in energy retail markets. Social welfare policy measures are generally sufficient to address concerns about the inability of disadvantaged members of the community to pay for services.

The 13 December 2007 MCE meeting extended the timeframe for the introduction of the national retail regulation legislative package from 1 January 2007 (as provided for the June 2006 COAG amended *Australian Energy Market Agreement*) to no later than 30 September 2009. The delays experienced to date in introducing the proposed national retail regulation package are increasing the costs to consumers and investors of current separate jurisdictional regulatory arrangements, and the MCE should be encouraged to adhere to the revised timetable.

Similar comments in relation to the benefits of a single national scheme are applicable to the current separate arrangements for jurisdictional energy ombudsmen, and esaa supports the recommendation in the draft report that a national energy and water ombudsman be established incorporating all relevant existing State and Territory Alternative Dispute Resolution bodies.

Retail Price Regulation

esaa has consistently argued that the ongoing application of retail price regulation in contestable retail energy markets represents one of the most significant impediments to efficient energy market development in Australia.

A study undertaken for esaa by CRA International into the effect of retail price regulation found that price regulation in contestable retail energy markets is likely to confer little or no public benefit but impose considerable direct and indirect costs, thus reducing overall welfare¹. Price regulation is a poorly targeted and highly costly measure to deliver affordability for a relatively small number of less well-off consumers who may have difficulty accessing electricity and gas at competitive prices.

esaa welcomes the PC recommendation to remove retail price caps. It is noted that the June 2006 COAG amended *Australian Energy Market Agreement* provides for the removal of retail price regulation following a finding of effective market competition by the Australian Energy Market Commission (AEMC).

The AEMC has recommended that the regulation of standing offer retail prices in Victoria cease from 1 January 2009 following the recent assessment of competition in the Victorian market². The Victorian example indicates that retail price regulation can be removed independent of the establishment of a single national retail regulation framework.

Greenhouse Measures

Jurisdictional greenhouse policy measures have the potential to complicate and distort the development and benefits of a national energy retail market regulation framework, particularly if the measure is enforced using existing jurisdictional mechanisms such as energy market operating licences, thereby potentially entrenching the regional enforcement mechanism when it would be superseded by measures in a single national regulatory framework. Jurisdictional renewable energy targets and energy efficiency schemes imposed on retailers are examples of such greenhouse policy measures.

The Council of Australian Governments (COAG) at its December 2007 meeting agreed to review the current deployment of disparate jurisdictional greenhouse policy initiatives and develop a “coherent and streamlined set of climate change measures across jurisdictions to complement Commonwealth implementation of an Emissions Trading Scheme (ETS).”

South Australia has since announced that it will be implementing a jurisdiction-based Residential Energy Efficiency Scheme, while Queensland, the ACT and South

1 The Effects of Retail Price Regulation in Australian Energy Markets – available from http://www.esaa.com.au/reports_studies.html

2 AEMC - Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria Second Final Report 29 February 2008 – available from www.aemc.gov.au

Australia have announced solar feed-in tariffs which are also being contemplated by New South Wales, Victoria and Western Australia.

esaa supports the COAG process and the primacy of a National ETS providing the primary and least-cost carbon price signal in the Australian economy.

With a National ETS scheduled for implementation by 2010, and the Federal Government committed to a 20 per cent renewable energy target by 2020, the continued introduction of State-based greenhouse policy measures contradicts the recent agreement to a national greenhouse policy framework, undermines the development of efficient, least cost national greenhouse policy, and reduces the efficiency and effectiveness of a single national energy retail market regulatory framework. Any further complementary measures for greenhouse policy should be assessed via the COAG process to ensure optimisation with the introduction of the National ETS.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brad Page', with a stylized, cursive script.

Brad Page
Chief Executive Officer