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ATTORNEY-GENERAL
MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
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MEMBER FOR MOLONGLO

The Productivity Commission
Locked Bag 2
Collins Street East
Melbourne VICTORIA 8003

Dear Commissioner

The ACT Government welcomes the draft report by the Productivity Commission into electricity network frameworks and the contribution that this will make to the current debate over energy prices and the opportunity to mitigate future price increases through regulatory reform.

You would be aware that the ACT has a strong continuing commitment to energy market reform that enhances the welfare of ACT households and businesses, protects the interests of vulnerable members of our community, and addresses the urgent need to reduce our nation's greenhouse gas emissions. Our commitment to reform is reflected, for example, in our early adoption of the National Energy Customer Framework (NECF) and our support for strengthening the voice of consumers in Australian Energy Regulator (AER) network price determinations as well as strengthening the AER's powers. The ACT is also commencing a formal review of our own utilities legislation (the *Utilities Act 2000*) to look for further opportunities to streamline processes for energy businesses and customers in the ACT and to work towards national consistency in our regulatory frameworks.

It is important to note, however, that the ACT has a number of unique characteristics and different market and policy drivers in comparison to other jurisdictions. These must be important considerations in any process of reform and we would like them to be more fully reflected in the final report of the Productivity Commission.

Retail electricity market competition and price deregulation

The ACT has unique circumstances that make competition difficult to develop. These relate mainly to the small size of the Territory, high levels of customer satisfaction, high network reliability outcomes, and relatively low regulated network and retail electricity prices. This combination of factors means that there are more limited opportunities than in other jurisdictions for increasing customer value by either improving services or reducing prices.

In its 2010 Review of the Effectiveness of Competition in the ACT Electricity Retail Market, the Australian Energy Market Commission (AEMC) explicitly noted these factors as barriers to enhanced retail competition. Despite current levels of competition being determined to be 'ineffective', the AEMC recommended the removal of price regulation for small customers in favour of a price monitoring program.

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In making this recommendation, the AEMC noted that the likely result would be increases in electricity prices without any guarantee that effective competition would emerge in the foreseeable future. In this context the ACT Government has determined that the ACT community is best served by continued price regulation for small customers.

The ACT Government is committed to a long term goal of enhancing market competition. Specifically, our national leadership through early adoption of the NECF will support a more seamless national retail market thereby reducing costs for new entrants to compete in the ACT. The ongoing development of the Australian Energy Regulator's Energy Made Easy website will, over time, also promote more active consumer engagement in the energy market. It is critical to the development of a national retail market that other jurisdictions come on board with NECF consistent with their previous COAG commitments.

Despite our decision to retain retail price regulation for small customers in the short term, the ACT Government understands and supports a move to more cost-effective pricing to tackle peak demand issues. How this is best achieved in a regulated pricing environment, while promoting retail competition, requires careful consideration and the ACT Government believes the Commission's analysis would be strengthened through consideration of this fundamental issue.

We also note the Commission's discussion of the roll-out of smart metering infrastructure. The ACT considers that more information is warranted regarding the cost and sensitivities associated with roll-outs, especially considering that previous cost-benefit analyses have shown broad-based roll-outs to be generally not cost-effective.

The ACT Government's part-ownership of ActewAGL Distribution Ltd

The Commission's draft recommendation 7.2 sets out proposed governance arrangements for State owned network businesses should jurisdictions not adopt the Commission's recommendation for full privatisation.

The ACT Government is able to confirm that the proposed governance arrangements already apply to ActewAGL Distribution.

ACTEW Corporation Ltd operates as an independent corporation under the direction of a board of directors and under the management of an executive management team. ACTEW is regulated by the *Corporations Act 2000 (Cwlth)* and is also subject to a further overlay of public accountability under the *Territory-owned Corporations Act 1990 (ACT)*.

The ACT Government owns, through ACTEW Corporation Ltd, a fifty percent interest in ActewAGL, a joint venture with two private sector partners, that provides gas and electricity services. The Joint Venture arrangements consist of two separate partnerships, an energy distribution partnership, ActewAGL Distribution, and an energy retail partnership, ActewAGL Retail.

The ActewAGL Partnership Board comprises three members appointed by ACTEW and three members appointed by the other partners. Importantly, members of the board are required to act in the best interests of the partnership as a whole and not with regard to other ACT Government policy or administrative settings. Although ActewAGL is not a company, it operates under standards identical to those applying to directors under the *Corporations Act 2000*.

Privatisation would require the approval of the ACT Legislative Assembly. You should also be aware that in the lead up to the ACT election on 20 October 2012 the Government ruled out privatising ACTEW Corporation Limited in favour of the continuation of the current arrangements.

Yours sincerely

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Minister for the Environment and Sustainable Development

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