



3 March 2009

Consumer Policy Inquiry  
Productivity Commission  
PO Box 80  
Belconnen ACT 2616

**[regulatoryburdens@pc.gov.au](mailto:regulatoryburdens@pc.gov.au)**

Dear Sir/Madam

**ANNUAL REVIEW OF REGULATORY BURDENS ON BUSINESS: SOCIAL AND  
ECONOMIC INFRASTRUCTURE SERVICES**

Please find attached the ERAA's Submission to the Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services which relates to specific issues to energy retailers. The ERAA also endorses the comments in the esaa's submission to which the Association is a signatory.

Yours sincerely,

Alastair Phillips  
Acting Executive Director  
**Energy Retailers Association of Australia**



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Dear Sir/Madam

**ANNUAL REVIEW OF REGULATORY BURDENS ON BUSINESS: SOCIAL AND  
ECONOMIC INFRASTRUCTURE SERVICES**

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to comment on the Productivity Commission's Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services Issues Paper.

The ERAA is an independent association representing twelve retailers of electricity and gas throughout the National Electricity Market (NEM) and the jurisdictional gas markets. ERAA members collectively provide electricity to 11 million customers in the NEM and are the first point of contact for end-use customers for both gas and electricity.

In reviewing the customer policy framework the Association strongly believes that competition represents the best form of consumer protection. This is based on the principle that the entry or threat of entry of new firms into a market forces incumbent firms to operate efficiently and make the most competitive offers to customers in order to gain market share. However, to realise the development of such markets, policy makers must focus on ensuring the barriers to market entry are kept as low as possible. This necessitates a light-handed approach to consumer protection with intervention only considered as an option where consumers and suppliers have been shown to be unable to develop adequate solutions to specific problems or "market failures." Importantly, any such intervention should only be as a last resort and only after efforts to resolve such problems have been attempted and failed. Interventionist policy based on the assumption that suppliers and consumers will be unable to resolve these problems should only be made in exceptional circumstances.

The ERAA would specifically like to draw the Commission's attention to the following areas where we believe Government could alleviate the regulatory burden on energy retailers:

1. Energy specific regulation
2. Price Regulation
3. Energy Efficiency Schemes
4. Solar Feed In Tariffs

## **1. Energy Specific Regulation**

The Association believes the current consumer protection arrangements governing the retailing of gas and electricity are complex, divergent and inefficient. Compliance with these multi-jurisdictional regulations impose significant costs upon retailers, which both deters the entry of new retailers and diminishes the benefits that would otherwise flow from energy market reform to consumers.

In the retailing of gas and electricity the ERAA has been a strong supporter of the national reforms that are occurring through the Ministerial Council on Energy to encourage competition through the harmonisation and streamlining of the electricity and gas markets across Australia. The ERAA is currently involved in the Retail Policy Working Group which is looking at the harmonisation of the regulations governing the retail energy markets to create the National Energy Customer Framework (NECF).

The ERAA was concerned by the Ministerial Council on Energy's announcement in its 12 December 2008 Communiqué that the NECF legislation may not be introduced into the South Australian Parliament by September 2009. With the South Australian election in early 2010 such a hold-up would mean that the framework would not come into effect until 2011. This is over six years after the original Gilbert & Tobin paper which provided the starting point for the Retail Policy Working Group, and does not include the additional time needed for each State and Territory to fully implement the NECF.

The NECF is one of the most important pieces of energy market reform, which will streamline the current system of multi-market, state-based jurisdictions into one national body.

The ERAA is of the strong view that the legislation could still be passed by the end of 2009 if the RPWG were to establish a process for direct consultation on the draft legislation with all stakeholders concurrently. As was shown with both the drafting of the legislation for the introduction of Full Retail Contestability in Queensland in 2006/07 and the drafting of the National Gas Law Regulations, when stakeholders were brought together to provide direct input into the drafting of legislation, the progress made and final product was better than with individual consultation.

## 2. Retail Price Regulation of Energy

Energy price regulation represents a significant barrier to new energy retailers entering existing state and territory markets. Retail price regulation is a transitional measure introduced to protect customers while the energy markets were maturing. The ERAA therefore supports the current process by the AEMC to review the competitiveness of the retail energy markets which have introduced full retail competition. These reviews are undertaken with the objective that for those markets where competition is found to be effective that price regulation should be removed. In 2007 Victoria was the first market to a review of the level of competition by the Australian Energy Market Commission. The AEMC found that that retail energy competition in the State of Victoria, was highly effective and is leading to beneficial outcomes for households and businesses. On 1 January 2009 the Victorian Government abolished all regulation of retail energy tariffs for all household customers.

In 2008 the AEMC undertook an assessment of competition among energy retailers in South Australia. At the conclusion of that process the AEMC found that there was a vigorous level of competition among retailers and a high degree of customer awareness about retail competition. The Association is awaiting the response of the South Australian Government.

The ERAA is nevertheless concerned by the lack of progress in other markets. In NSW the Government is committed to introducing legislative amendments to extend independent retail price regulation to 2013 or beyond until it is satisfied that there is sufficient competition in the retail energy market.<sup>1</sup> The Queensland Government has also ruled out abolishing the regulation of retail energy prices.<sup>2</sup> Where such circumstances do not allow for the removal of price regulation the ERAA believes that cost reflective pricing must nevertheless be implemented.

The ERAA is concerned about the impact on energy retailers in those states where price regulation continues as result of the introduction of government schemes such as the Carbon Pollution Reduction Scheme; the Expanded Mandatory Renewable Energy Target; the introduction of smart meters<sup>3</sup>; energy efficiency policies<sup>4</sup>; and solar feed in tariffs. Without the abolition of retail price regulation retailers will be unable to pass costs relating to these government schemes through to end customers.

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<sup>1</sup> NSW Government, "Response to the Energy Consultative Reference Committee's Terms of Reference" 29 February 2008, p.vi

<sup>2</sup> The Hon. John Mickel, Minister for Energy & Aboriginal and Torres Strait Islander Policy "Queensland to retain electricity price control" 19 May 2006

<sup>3</sup> The Ministerial Council on Energy agreed to the roll-out of smart meters in Victoria and New South Wales. See [http://www.ret.gov.au/Documents/mce/\\_documents/MCE\\_Communique\\_15thMeeting\\_13\\_June\\_200820080613143729.pdf](http://www.ret.gov.au/Documents/mce/_documents/MCE_Communique_15thMeeting_13_June_200820080613143729.pdf)

<sup>4</sup> Such schemes include the Victorian Energy Efficiency Target, the Residential Energy Efficiency Scheme and the New South Wales Energy Efficiency Target.

The existing retail tariff regimes are already somewhat imprecise as there are inherent complexities involved in trying to estimate future costs in an environment of imperfect information. These difficulties will be exacerbated under the CPRS where clarity around future carbon prices will be lacking, particularly in the early years. There is therefore an increased likelihood of the tariff not capturing the true cost of energy.

A prime example of this would be that if the carbon price is underestimated, retailers would be forced to bear the burden as the inflexible nature of the regulated regimes makes it difficult to make adjustments. This increases the likelihood of retailer distress which has negative implications for the entire market. The ERAA believes the only way in which retailers will be able to fully recover all their costs associated with the various government policies is through the removal of retail price regulation.

### **3. Energy Efficiency Schemes**

The ERAA supports the need to establish a policy framework that promotes the use of renewable energy at least cost. The ERAA believes the CPRS should form the basis of Australia's response to tackling climate change. Such a scheme must set meaningful targets which balance the need to reduce greenhouse gas emissions with the significant financial impacts on business and households. In establishing the CPRS, the ERAA acknowledges the Government's decision to use the expanded MRET to increase the uptake of renewable energy technologies in the early years of the scheme. Over time it is hoped that both the CPRS and expanded MRET will assist households and business to reduce their greenhouse gas emissions in an efficient and timely manner.

The ERAA considers the current approach to energy efficiency being pursued by the States and Territories as uncoordinated, ineffective and costly. While the ERAA supports the promotion of energy efficiency to assist households to manage their transition to the low carbon economy, the Association does not support the introduction of white certificate schemes such as the Residential Energy Efficiency Scheme (South Australia), the Victorian Energy Efficiency Target or the New South Wales Energy Efficiency Target. Such schemes place a requirement on retailers to undertake activities which improve energy efficiency and therefore reduce greenhouse gas emissions. The ERAA believes that such schemes are not cost effective due to their high transactional costs, more importantly, each of the schemes fail to address the main barriers to improving energy efficiency such as education, split incentives and the under pricing of energy due to price regulation.

The ERAA believes a national approach towards energy efficiency policy, coordinated by the Australian Government would be far more effective than the existing state-based schemes. While allowing for innovation and regional differences the involvement of the Australian Government to coordinate the improvement of energy efficiency would help to reduce the

duplication and inconsistency experienced in some markets. The ERAA also believes the coordination of existing jurisdictional policies and related programs and the pursuit of full convergence of existing jurisdictional energy efficiency policies should be the overriding objective of any national energy efficiency policy. Such an objective would ensure such policies associated with energy efficiency were also consistent with the CPRS and the MCE's energy market reform program to create national energy legislation and rules for the retailing of electricity and gas.

The ERAA endorses the Council of Australian Government's (COAG) set of principles in relation to the design of mitigation measures in addition to the CPRS to guide State jurisdictions in reviewing their energy efficiency activities. The ERAA also supports the COAG proposal to develop a National Strategy for Energy Efficiency to encourage energy efficiency efforts across all governments and to assist consumers with the transition to a CPRS. The ERAA encourages all State Governments to apply the COAG principles in evaluating their energy efficiency activities and to sign up and use the National Energy Efficiency Strategy to streamline and nationalise energy efficiency activities.

#### **4. Solar Feed In Tariffs**

Solar Feed in Tariffs (FITS) have been introduced in a number of states as a way to increase the uptake of solar energy. The ERAA supports the need to establish a policy framework that promotes the use of renewable energy at least cost. In light of the introduction of the CPRS and the expanded MRET the ERAA would question the need for such policies especially as there will be a multiplier as part of the expanded MRET to encourage small generation such as household photovoltaic systems. The ERAA has received little evidence from any of the states as to whether introducing these schemes is cost effective or efficient. Given that small scale solar photovoltaic cells have do not represent the most cost effective of energy savings, the ERAA would question the value of introducing such a policy.<sup>5</sup>

While it is often argued that the regulation of electricity prices needs to be retained to protect those in the community who are vulnerable due to financial status, age, health and literacy, the introduction of a solar feed in tariff are counterproductive to assisting such customers.<sup>6</sup> Because the costs of most FIT schemes are smeared across all energy consumers, and then recouped by the Industry through higher energy charges, vulnerable customers will be disadvantaged as they will be subjected to increased electricity tariffs, and because they are unlikely to be able to afford the significant upfront cost of installing solar panels on their homes.

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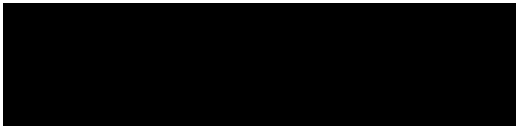
<sup>5</sup> Independent Competition and Regulatory Commission, 'Comments to ACT Feed-In Tariff Discussion Paper' (Canberra 2008), p.4

<sup>6</sup> Unsworth, B. Impact Statement from the Energy Consultative Reference Committee,' (Sydney 2008),p. 5.

The ERAA is particularly disappointed at the haphazard way in which the Solar FITs have been introduced across the States. While the ERAA would prefer that Governments had not introduced FITs, it strongly believes that their approach must be harmonised in order to minimise the administration costs to both retailers and distributors. The ERAA is of the view there must be a concerted effort by the States to ensure their schemes are consistent with the COAG principles for FITs especially in relation the scheme not impacting on competition in retail markets. In this regard the ERAA would support the Ministerial Council on Energy reviewing the tariffs across the states to make them nationally consistent.

Should you require any further information in relation to this matter please feel free to contact me on (02) 9437 6180.

Yours sincerely



Alastair Phillips  
Acting Executive Director  
**Energy Retailers Association of Australia**