



31 July 2009

Regulatory Burdens: Social and Economic Infrastructure Services  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

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

**Productivity Commission Annual Review of Regulatory Burdens on Business:  
Social and Economic Infrastructure Services – Draft Research Report**

The Energy Supply Association of Australia (esaa) welcomes the opportunity to comment on the Draft Research Report of the Productivity Commission's Annual Review of Regulatory Burdens: Social and Economic Infrastructure Services (the Draft Report).

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 \$120 billion in assets, employ over 40,000 people and contribute \$14.5 billion directly to the nation's Gross Domestic Product.

esaa commends the Draft Report's acknowledgement of the significant regulatory burdens faced by the energy sector and notes the Commission has addressed many of the issues raised in the Energy Industry's Joint Submission to the Issues Paper.

In particular, the Association supports recommendations 5.1, 5.2 and 5.3 of the Draft Report, which relate to maintaining reform momentum for retail price deregulation, enabling energy retailers to pass-through carbon-related costs and reducing the cost and complexity of the regulatory burden. esaa encourages the Productivity Commission to build on these draft recommendations in its final report by adding a specific recommendation to address the proliferation of greenhouse-related schemes in light of the implementation of a national Emissions Trading Scheme (ETS).

In addition, esaa considers the Commission and not the Australian Energy Regulator (AER), should undertake the review of approaches to reduce the regulatory burden associated with access reviews and associated information requirements.

## **Access reviews**

esaa agrees with the Commission's assessment that current reporting arrangements are not optimal and that more needs to be done to ensure information requests are streamlined and better coordinated. The Productivity Commission suggests that the AER undertake a review examining the options to reduce the complexity of current review processes and the volume of information required from businesses.

esaa considers that such a review is unlikely to be effective given the inherent conflict of interest of the Regulator reviewing its own regulatory practice. esaa maintains the original recommendation from the Joint Industry Submission that the Productivity Commission should undertake an independent inquiry into alternative lighter-handed regulatory models in order to address the significant burden of regulatory reviews and associated information requirements. This review should include consideration of the specific issues raised in the Joint Industry Submission.

## **Energy retail price regulation**

The Draft Report restates the Productivity Commission's position that "retail price caps should be removed as soon as effective competition has been established" to improve the efficiency of energy markets and recommends amendments to the Australian Energy Market Agreement (AEMA) to maintain reform momentum.

esaa has long supported the removal of retail price regulation where retail markets are contestable. While the AEMA sets out a process for removing retail price regulation, to date only one jurisdiction, Victoria, has removed price regulation and the timeframe for the reviews of effective competition by the Australian Energy Market Commission (AEMC) has slipped. esaa therefore firmly supports the Productivity Commission's draft recommendation for clarification of the process for follow-up reviews, where an AEMC recommendation for the removal of retail price regulation in a jurisdiction was not acted upon.

The case for removing retail price regulation in jurisdictions where retail markets are contestable is reinforced by the implementation of a national ETS and expansion of the Renewable Energy Target (RET). However, where the removal of retail price regulation is not contemplated by Governments, esaa considers increased flexibility in setting retail price caps to allow for the full and timely pass through of ETS/RET related costs using a uniform national methodology is imperative to ensure a financially viable and competitive retail sector.

In this context, esaa supports the Productivity Commission's recommendation that the Ministerial Council on Energy (MCE) commission the AEMC to work with jurisdictions retaining retail price regulation to implement timely and responsive adjustment mechanisms. In the absence of full retail price deregulation, the Association's preferred approach is that a single, nationally consistent methodology for determining retail electricity prices be developed and adopted across Australia and that the AEMC, with responsibility for rulemaking and market development, determine the appropriate methodology.

## **National Energy Customer Framework**

The Draft Report encourages governments to ensure that the proposed National Energy Customer Framework (NECF) is implemented as quickly as possible (subject to good process and achieving the best outcomes) and with jurisdictional variations kept to a minimum.

esaa fully supports the NECF as an important component of the creation of a single national framework for the regulation of retail supply of both electricity and gas, as committed to under the AEMA.

As noted by the Productivity Commission, the development and implementation of the NECF has been beset by delays. esaa acknowledges the complexity of rationalising State and Territory based regulatory frameworks into a coherent national regime. However, esaa has concerns that without a clear timeframe for transition there is a significant risk that this important reform process will be further delayed and that the Council of Australian Government's commitment to a single, national framework will not be delivered. esaa considers there is scope for the MCE to work closely with jurisdictions following the current round of consultation to further clarify the timeframe and develop appropriate incentives for transition to the NECF.

## **Multiplicity of climate change policies and solar feed-in tariff schemes**

esaa agrees with the Productivity Commission that a national ETS should be the central policy plank in Australia's emissions reduction efforts. esaa considers that with the implementation of a national ETS there is an opportunity to rationalise and simplify the myriad of greenhouse-related programs that have proliferated in various jurisdictions. As the Productivity Commission notes, additional climate change mitigation measures are only needed to fill gaps beyond the reach of an ETS and must be of net benefit to the community.

esaa also supports the Productivity Commission's sentiment that solar feed-in tariff schemes should be re-examined. esaa does not support policy that favours or disadvantages particular fuels or technologies as they are unlikely to deliver greenhouse abatement objectives at least cost. If jurisdictions decide to persist with solar feed-in tariff schemes, despite the fact that they distort markets by mandating high-cost abatement measures over more efficient solutions, then esaa's view is that measures to ensure consistency of such schemes across jurisdictions should be examined further.

Given the broad importance to the Australian economy of reducing greenhouse gas emissions in an efficient and least-cost manner, esaa considers there is merit in the Productivity Commission including in its final report a formal recommendation for the establishment of defined government commitments to phase out inconsistent State and Territory based climate change measures following the introduction of a national ETS.

### **Concerns relating to the regulatory and policy framework**

esaa acknowledges that some issues in the Energy Industry's Joint Submission to the Review's Issues Paper, such as overlapping energy specific and general regulation and the split of regulatory responsibilities between states/territories and the national regime, are beyond the scope of the Productivity Commission's study.

esaa will continue to encourage Australian governments to address these issues as part of its broader regulatory reform efforts to eliminate unnecessary regulatory burdens on the energy sector.

Again, the Association welcomes the Draft Report and supports the Commission's recommendations which respond directly to many of the issues raised in the Energy Industry's Joint Submission to the Issues Paper. esaa encourages the Commission to give further consideration to the outstanding issues raised in this submission in its final report.

Yours sincerely

**Brad Page**  
Chief Executive Officer