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Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

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2016 Retail Competition Review – Approach Paper

The Energy Supply Association of Australia (esaa) welcomes the opportunity to make a submission to the Australian Energy Market Commission's (AEMC) 2016 Retail Competition Review Approach Paper.

The esaa is the peak industry body for the stationary energy sector in Australia and represents the policy positions of the Chief Executives of 34 electricity and downstream natural gas businesses. These businesses own and operate some \$120 billion in assets, employ more than 59,000 people and contribute \$24.1 billion directly to the nation's Gross Domestic Product.

The Association has consistently advocated for deregulation of retail energy markets to drive the best outcome for consumers. Open, competitive energy markets free from distortions such as retail price regulation naturally encourage prices to be efficient through the development of market offers. The AEMC has an important role to play in this regard. In particular, the Competition Review is an opportunity to demonstrate the effectiveness of retail competition and provide jurisdictional governments with the confidence to remove any remaining price controls.

Assessment approach

The esaa is broadly supportive of the AEMC's proposed approach for the 2016 Retail Competition Review. This approach compiles a range of relevant competitive market indicators to form a picture of the state of competition in retail energy markets. It also acknowledges that no one indicator is determinative of the effectiveness of competition and appropriately dismisses the need to conduct a detailed investigation of net or gross retail margins as part of any competition assessment.

In assessing the level of competition, an important first step is to define the relevant markets to be assessed. In this respect, the AEMC has proposed adopting the same market definition as for the 2015 review and does not intend on explicitly considering alternative energy sellers. Alternative energy sellers provide customers with products and services that compete with the traditional retail business model and are therefore relevant to the competition metrics identified by the AEMC. To the extent alternative sellers aren't explicitly captured by the AEMC's market definition, it is important that detailed consideration is given to the potential impact of new products and services on competition in retail energy markets, as flagged in the Approach Paper.

Driving competition in retail markets through price deregulation

Under the Australian Energy Market Agreement (AEMA) and the Council of Australian Government's National Partnership Agreement to Deliver a Seamless National Economy, jurisdictions have committed to the removal of retail energy price regulation where effective competition can be demonstrated. The AEMC's assessment of retail energy market competition provides an important contribution in this regard. But retail price regulation continues to persist in a number of regions where the AEMC has shown competition to be effective. This includes the retail electricity market in south east Queensland (SEQ) and retail gas market in New South Wales.

The Association has consistently advocated for deregulation of the retail energy market to drive the best outcome for consumers. Open, competitive energy markets free from distortions such as retail price regulation naturally encourage prices to be efficient through the development of market offers and innovative product offerings. Competition in retail electricity markets, as in other sectors of the Australian economy, incentivises businesses to improve service, develop products that meet consumer needs and find ways to lower their costs so as to pass these savings onto consumers. This ensures retail prices are set as low as is sustainably possible while businesses can still make an appropriate return.

Improved product choice and price discounts are clearly beneficial for consumers, but the spread of market offers provided in competitive retail markets is sometimes identified by governments and consumer groups as an area of concern. In particular, there is a view that such arrangements disadvantage those customers that do not engage in the market and remain on the standing offer. The Victorian retail energy market has been at the centre of recent commentary around this issue and the Competition Markets Authority is currently undertaking a review of the retail energy market in the United Kingdom.

While the Association strongly agrees that consumer engagement is an essential element of a well-functioning and competitive retail sector, it is important to put this issue in context. In the case of the Victorian retail electricity market, close to 90 per centⁱ of residential consumers are currently accessing discounted market offers. Further, seeking to manufacture particular market outcomes (e.g. lower standing prices) for the small proportion of consumers that do not engage in the market will likely constrain competition and impede product choice and discounts more broadly.

The esaa recently commissioned Professor Stephen Littlechild to explore these issues in the context of retail energy markets in the UK and Australia (a copy of the report has been provided as a separate attachment for the AEMC's consideration).ⁱⁱ The UK retail market has been subject to a range of interventions since 2008. In particular, the Office of Gas and Electricity Markets (Ofgem) has variously introduced prohibition on regional price differentiation; proposed (then later withdrawn) a provision for Ofgem itself to set a standing charge for all customers of all suppliers; and sought to encourage more customer engagement by introducing strict requirements limiting the number and tariffs that suppliers can offer.

These interventions have distorted prices and investment returns in the UK retail energy market. In several cases, measures that were designed to lower prices and increase competition had the exact opposite effect, the impact of which ultimately falls on consumers. This was reflected in the CMA's provisional findings, which noted that Ofgem's policies on regional non-discrimination and simple tariffs have had an adverse effect on competition.ⁱⁱⁱ

Professor Littlechild recently noted: “the CMA finds that Ofgem’s policies since 2008, on regional non-discrimination and simple tariffs, have had an Adverse Effect on Competition, and should be discontinued. Ofgem accepts this. Just pause a moment: this is the most damning indictment of a utility regulator in any sector since privatisation and regulation began. A regulator with a duty to promote competition has been found to have spent the last seven years undermining it, and continues to do so today.”^{iv}

Drawing on the UK experience to appraise recent commentary around the level of profits and margins in Victoria since retail price controls were removed, Professor Littlechild notes the relevant competition indicators/metrics suggest the retail market in Victoria is competitive.^v Further, the implementation of some form of price cap to benefit those who don’t engage in the market is likely to increase prices for those who do and generally reduce competition such that all customers are worse off.^{vi}

Consistent with this, it is important the Queensland and New South Wales Governments fulfil their commitments to deregulate the SEQ retail electricity market by 1 July 2016 and the retail gas market in NSW by mid-2017 respectively.

Any questions about our submission should be addressed to Shaun Cole, by email to shaun.cole@esaa.com.au or by telephone on (03) 9205 3106.

Yours sincerely



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ⁱ Ibid.

ⁱⁱ Littlechild, Stephen., ‘Regulation of Retail Energy Markets in the UK and Australia’, report prepared for the esaa, October 2015.

ⁱⁱⁱ Ibid.

^{iv} Littlechild, Stephen., ‘Opening remarks to the Indepen Forum on 29 September 2015 – Snakes and Ladders: price controls and markets. What might the CMA’s provisional findings mean for retail markets in utility services?’, transcript.

^v Littlechild, Stephen., ‘Regulation of Retail Energy Markets in the UK and Australia’, report prepared for the esaa, October 2015.

^{vi} Ibid.