



EnergyAustralia

4 December 2015

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Reference RPR0004

Dear Commissioners

AEMC 2016 Retail Competition Review – Approach Paper

1. Introduction

EnergyAustralia welcomes the opportunity to comment on the Australian Energy Market Commission's (the Commission) Approach Paper for its 2016 Review of Retail Competition. We are one of Australia's largest energy companies, with over 2.5 million household and business customer accounts in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. We also own and operate a multi-billion dollar portfolio of energy generation and storage facilities across Australia, including coal, gas and wind assets with control of over 4,500MW of generation in the National Electricity Market.

These annual reviews promote greater awareness and common understanding among industry stakeholders of the operation and dynamic nature of retail energy markets. This should lead to better regulatory administration; policymakers and regulators can better understand the nature and extent of perceived problems and can develop a proportionate, appropriate and evidence-based response.

These reviews also enable the Commission to identify impediments to more efficient market outcomes, a notable example of which is the ever-changing regulatory framework. As mentioned in numerous submissions, we view factors such as uncertainty about the level of regulated prices, differences in regulatory obligations for entities competing to provide similar services, and biases in favour of specific technologies as significant barriers to entry and expansion, and as a result, to effective competition. Stable regulation and clear specification of the rules of the game will promote competition, encourage efficient consumption and investment, and drive product innovation. This is considered further in our discussion of new products and services.

The Commission acknowledges that there are numerous organisations that also monitor aspects of retail energy markets. EnergyAustralia welcomes the Commission's pragmatic

approach to undertaking its annual retail competition reviews, particularly its recognition that there is scope to work with jurisdictional governments and regulatory bodies in order to minimise duplication of effort and to leverage existing work.

In general, the Approach Paper outlines a pragmatic and reasonable approach to a review of retail competition, most notably in its discussion of competitive retail prices and the assessment of margins. The remainder of this submission considers some specific issues in more detail and identifies additional factors to which the Commission should have regard as it reaches conclusions about the state of competition.

2. Market definition

EnergyAustralia supports the Commission's decision to consider the current and potential impact of new products and services on competition. This reflects the dynamic nature of the market and in particular, how technological developments have and will increasingly alter customers' consumption and investment decisions and the nature of the services that retail market participants can offer. Retailers and other market participants are broadening the range of services they offer their customers and how they are delivered.

We also note the Australian Energy Regulator (AER) has issued more than 1,600 retail exemptions of various kinds, all of which provide an alternative to traditional retailers as a mechanism for the sale of energy. We expect the number of exemptions will continue to grow rapidly, particularly as the AER broadens the scope of the exemption framework to capture emerging business models, such as 'innovative energy sellers'.

However, EnergyAustralia continues to hold the view that regulators and policymakers do not have access to sufficient information about the operation of these new entities due to the absence of formal reporting obligations and as they are not required to be members of ombudsman schemes. Furthermore, we are not convinced that 'customer research, the retailer survey and publicly available information' will be sufficient to provide a complete picture of the extent to which these entities comply with conditions of exemption.

We have expressed this view in our various contributions to formal reviews of the impact of new technologies on retail energy markets, including the AER's Issues Paper on the regulation of innovative energy sellers.¹ More specifically, we have recommended the imposition of minimum customer protection measures (including membership of ombudsman schemes) and reporting obligations as a condition of retail exemption. This will not only provide an appropriate level of protection for all customers but also provide a more complete picture of the extent of competition for the sale of energy. Information of this kind would enhance future reviews of retail competition.

3. Competitive market indicators

We agree with the Commission that there is no single indicator of the degree of customer activity and / or satisfaction with the operation of retail markets. As such, the Commission's approach, which involves analysis of numerous metrics such as customer switching and attitudes, is appropriate.

¹ EnergyAustralia (2015), *Submission to AER Issues Paper: Regulating innovative energy selling business models under the NERL*, available at <https://www.aer.gov.au/retail-markets/retail-guidelines/regulating-innovative-energy-selling-business-models-under-the-national-energy-retail-law/initiation>

We also welcome the Commission's acknowledgement that internal switching is another indicator of independent rivalry. Retailers often switch customers between products that are better suited to their needs and / or reflect their changing circumstances. Many customers are satisfied with market outcomes even where they remain with their current retailer.

However, we reiterate comments in our submission to the Commission's 2015 Approach Paper that customer satisfaction is often influenced by price, a significant component of which is outside retailers' control (most notably, network components).² Observed increases in the real cost of electricity, and the primary sources of those increases, have been well documented and it is likely that dissatisfaction with the state of the energy market – which could be expressed through survey responses – is a function of numerous factors that are difficult to disentangle.

EnergyAustralia welcomed discussion of switching in other consumer service sectors (such as insurance, banking and telecommunications) in the 2015 Competition Review and consider that this provides valuable context for the energy sector. We would support similar comparisons in the 2016 review and consider this analysis could be extended to consider what share of income is spent on energy when compared with other services. The Commission should also review the regulatory frameworks for these sectors to identify their impact on competition and whether there are lessons for the energy market.

4. Issues for further investigation

Vulnerable customers

EnergyAustralia notes the Commission's intention to focus on 'vulnerable customers'. The Approach Paper suggests that many vulnerable customers have difficulty participating in retail energy markets due to 'concerns about the potential for poor outcomes'. On the other hand, the Commission refers to its 2015 customer survey and suggests that other vulnerable customers are very active in seeking out products that might better suit their circumstances and are very open to switching retailers. It seems that the Commission will focus on the subset of vulnerable customers who are not appearing to engage in retail markets, however that might be defined, so we encourage the Commission to be precise in its terminology.

This raises the issue of the visibility of engagement and whether it can be assessed through a customer survey undertaken at a particular point in time. Competition compels retailers to constantly seek to better understand *all* their customers' needs, not just those that might be considered vulnerable or who participate in hardship programs. Retailer services include advice about consumption profiles, alternative products, appliance swaps, energy efficiency and tailored payment plans. Retailers also have a commercial incentive to understand their customers' circumstances and to identify customers' payment difficulties at an early stage. These activities will not always be obvious to other stakeholders – and do not necessarily translate into internal switching or a switch to another retailer – but still represent genuine engagement.

Finally, the issues of hardship and engagement have received considerable attention in other contexts, most recently in the Essential Services Commission's current Energy Hardship Review and the AER's review of retailers' hardship schemes from earlier this year.³ Therefore,

² EnergyAustralia (2014), *Submission to Australian Energy Market Commission Approach Paper – 2015 Retail Competition Review*, available at <http://www.aemc.gov.au/Markets-Reviews-Advice/2015-retail-competition-review>

³ Details are available at <http://www.esc.vic.gov.au/Energy/Energy-Hardship-Review> and <https://www.aer.gov.au/news-release/aer-releases-review-of-energy-retailers-hardship-policies-and-practices>.

we encourage the Commission to have regard to recent and ongoing reviews as it undertakes its own analysis.

New products and services

The Approach Paper notes that the traditional model for the sale of energy is being challenged by new products and services. Many market participants, including incumbent retailers, are reviewing their market strategies and working with customers to better understand their needs and preferences. This includes the extent to which new technologies can complement existing service offerings, so we agree with the Commission that the emergence of new products and services is an important indicator of effective competition.

However, the prevailing regulatory framework (and proposals to change that framework) can significantly influence the timing and form of innovation. For example, EnergyAustralia has previously discussed the potential for the regulation of exempt sellers, particularly alternative and innovative sellers to confer a cost advantage on some technologies and business models. This issue remains largely unresolved and uncertainty about the outcome will influence investment decisions.

The Commission recently finalised a rule change to promote competition in metering and recently consulted on the implications of regulation for storage. In this area, EnergyAustralia supports a market-led rollout of smart meters and anticipates that retailers will employ smart meters as an enabler of more innovative products. However, EnergyAustralia has noted the importance of effective ring-fencing arrangements to support the proposed metering rules – and also for storage – and understands the AER will be required to develop a new guideline by the end of 2016.⁴

Another reform that remains uncertain is the implementation of more cost reflective network tariffs, which are scheduled to commence in 2017. These tariffs will alter the incentive structure for distributed generation and provide customers (and retailers on their behalf) with a strong incentive to seek out more innovative solutions to their energy needs. This could involve technologies that assist customers to better understand their consumption profiles and to then alter their profile to avoid higher demand charges during peak periods, for example.

As with metering, however, the rationale and expected benefits of reform are clear but we are observing implementation differences in approach across jurisdictions. The Victorian distribution networks are proposing to implement monthly demand charges, with reduced emphasis on fixed and variable components. On the other hand, the NSW distribution networks have flagged an intention to increase the fixed component of network charges and introduce declining block variable charges; this could undermine the business case for smart meters and more innovative products to some degree.

As noted above, EnergyAustralia does not consider that regulators and policymakers have access to sufficient information about the operation of new entities entering the energy market. If the Commission finds similar informational gaps in its Competition Review we encourage it to make recommendations to improve public and / or regulatory reporting.

Therefore, we encourage the Commission to have regard to the broader regulatory context, including differences across jurisdictions, as it reviews retail market outcomes.

⁴ See EnergyAustralia's submissions to the AEMC's *Expanding competition in metering and related services* rule change process and to the AEMC's *Integration of Storage: Discussion paper*

While new technologies are changing the way energy is consumed, transported and generated, EnergyAustralia believes that customers will see greater innovation when there is certainty and stability in regulatory frameworks. We urge policymakers and regulators to have patience and to recognise that the emergence of transformative technologies can be delayed when there is uncertainty about pricing and the competitive environment.

Should you require further information regarding this submission please call me on (03) 8628 1479.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G Hargreaves', with a stylized flourish at the end.

Geoff Hargreaves

Industry Regulation Lead