

31 January 2008

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

By email: submissions@aemc.com.au

Dear Dr Tamblyn,

Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria - Second Draft Report

The Energy Retailer's Association of Australia (ERAA) welcomes this opportunity to provide comment on the Australian Energy Market Commission's (AEMC) *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria - Second Draft Report* (Second Draft Report). The Second Draft Report is a welcome contribution to the consultation process undertaken by the AEMC as part of its responsibility under the Australian Energy Market Agreement (AEMA).

To date, the ERAA has been a strong and vocal advocate that the levels of competition in Australia's key retail energy markets justified the removal of price regulations. The AEMC's finding that the level of competition in the Victorian market is effective is in line with arguments put forward by the ERAA and its members in earlier responses to this review, and in general we welcome the findings of the Commission's First Final Report.

Following on from this, the Commission's Second Draft Report makes recommendations concerning steps required to ensure a satisfactory transition to an unregulated retail pricing regime. The ERAA would like to bring to the Commission's attention its views on two of the recommendations raised in the report.

Publication of standing offer prices, price monitoring and reporting

The Commission recommends that a legal obligation be placed on all retailers (host and new) to determine and publish their own standing offer prices, and that monitoring and

public reporting of retailers' standing offer prices be carried out for a minimum of three years.

The AEMC has outlined that standing offer prices are important for ensuring a degree of price transparency in the market, as well as establishing a simple framework for the operation of default supply arrangements. However, it does not follow that direct monitoring and public reporting of standing offer prices is essential or even beneficial to these objectives under price deregulation.

While acknowledging the need for the monitoring and reporting process to focus on 'factual matters and refrain from making assessments of the consistency of reported price trends with expected competitive market outcomes', the Second Draft Report does not appear to define the regulatory objective of monitoring and public reporting clearly enough.

Standing offer rates should be able to be set at levels which accurately reflect costs of supply. Standing offers are either consistent with effective competition, or they are not. However, monitoring a market to determine the ongoing effectiveness of competition is a technical matter and an appropriate conclusion can not be reached by looking at standing offers in isolation.

Furthermore, if public reporting is used to put downward pressure on standing offers, either directly or indirectly, then this goes against the rationale for the removal of price regulation and risks substitution of one form of price constraint with another.

The ERAA is therefore not supportive of a formal monitoring and public reporting process focussed on standing offer prices. However, should any factual based reporting still deemed to be necessary the ERAA suggests that this be undertaken by the Australian Energy Regulator (AER) from the outset rather than the Essential Services Commission of Victoria (ESCV) as recommended. The ERAA has argued strongly for a national regulator and there is no benefit to continuing jurisdictional differences at this stage in the national reform process.

Obligation to offer to supply and sell energy

Being representative of a diverse group of organisations, the ERAA will refrain from endorsing a preferred model for the obligation to supply, and the Commission is directed to the individual submissions of our members for their specific views. Suffice it to say that there is a general acceptance that the obligation to supply to residential

customers remains in some form given the essential nature of electricity, and to a lesser extent gas.

The Yarrow Report

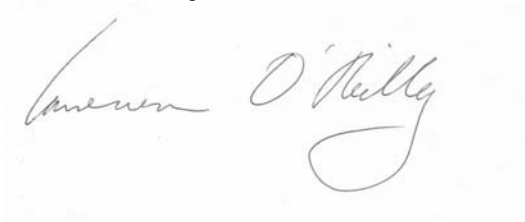
The ERAA notes that the AEMC-commissioned Report on the Impact of Maintaining Price Regulation, by Professor George Yarrow, reaches conclusions which do not appear to support public reporting of prices in any way, nor formal price monitoring more generally. Essentially, both the theoretical and empirical analysis outlined in this report shows that there remain considerable issues with maintaining public emphasis on standard offers. This can dilute tariff innovation and suppress consumer incentives to seek out alternative offers in the market.

We would advise that any decision on the use of a monitoring and reporting framework for standard offers be made with close reference to Professor Yarrow's findings, with particular reference to the experience of Texas following the removal of the 'Price To Beat' tariff model.

The ERAA has always had as one of its guiding principles the enhancement of competition through regulatory improvements, and thus we credit the AEMC for its recommendation that price regulation be removed and look forward to further participation in the consultation process.

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

Yours sincerely

A handwritten signature in black ink, reading "Cameron O'Reilly". The signature is written in a cursive style with a large, looped 'y' at the end.

Cameron O'Reilly
Executive Director
Energy Retailers Association of Australia