



26 July 2013

Nathan Petrus
Director, Pricing and Access
Essential Services Commission of SA
GPO Box 2605
Adelaide SA 5001

By email: escosa@escosa.sa.gov.au

Dear Nathan,

2013 Determination of solar feed-in tariff premium – Draft Determination

AGL Energy welcomes the opportunity to comment on the Essential Services Commission of South Australia (the **Commission**)'s Issues Paper on *Review of Solar Feed-in Tariff Premium* (the **Issues Paper**), June 2013.

Background

Under Section 35A(1) of the Electricity Act 1996 (Electricity Act), when the current FIT Premium determination expires on 31 December 2013, the Commission can consider whether or not a further determination is necessary and, if so, what form of regulation is required. AGL had provided a submission to the Commission in April 2013 in relation to the variation of the Determination on the Solar Feed-in Tariff Premium from 1 July 2013. As noted by the Commission, AGL considers that, given the removal of price regulation on standing contract electricity prices from 1 February 2013, continued regulation of solar FIT premium is no longer required.

The issues raised in the Issues Paper are considered below.

What is the relevant market?

The Commission has noted that the decision to apply regulation generally relies on an assessment as to whether or not market failure exists, typically, where there is the potential for misuse of market power. In order to form a view on the prevailing level of competition, it is necessary to determine what the relevant market is.

As pointed out by the Commission, implicit in the submissions of retailers is the view that deregulation of the FIT premium is appropriate because it is part of the same market in which retailers sell electricity to retail customers. This is further supported by the fact that, currently, the solar PV market does not exist in isolation to the general retail electricity market. No retailer currently operates to serve solar PV customers only. Retailers who provide solar PV offers do so only as part of their general retail offers. AGL does not believe it is necessary to define the market in which retailers sell electricity to retail customers, nor the market in which retailers serve solar PV customers – it is suffice to find that the solar PV service segment is a subset of the same market in which retailers sell electricity to retail customers.

This view is also consistent with the approach taken by regulators in NSW and QLD. In the reviews of the fair and reasonable value of solar feed-in tariff, IPART¹ and QCA² had recommended against the setting of a mandated value for the FiT Premium. A key reason for this was that the market in which electricity is retailed is highly competitive. In reaching this conclusion, IPART and QCA have examined the number of retailers and churn rates in the retail electricity market - they have not considered the provision of solar PV services to constitute a separate market.

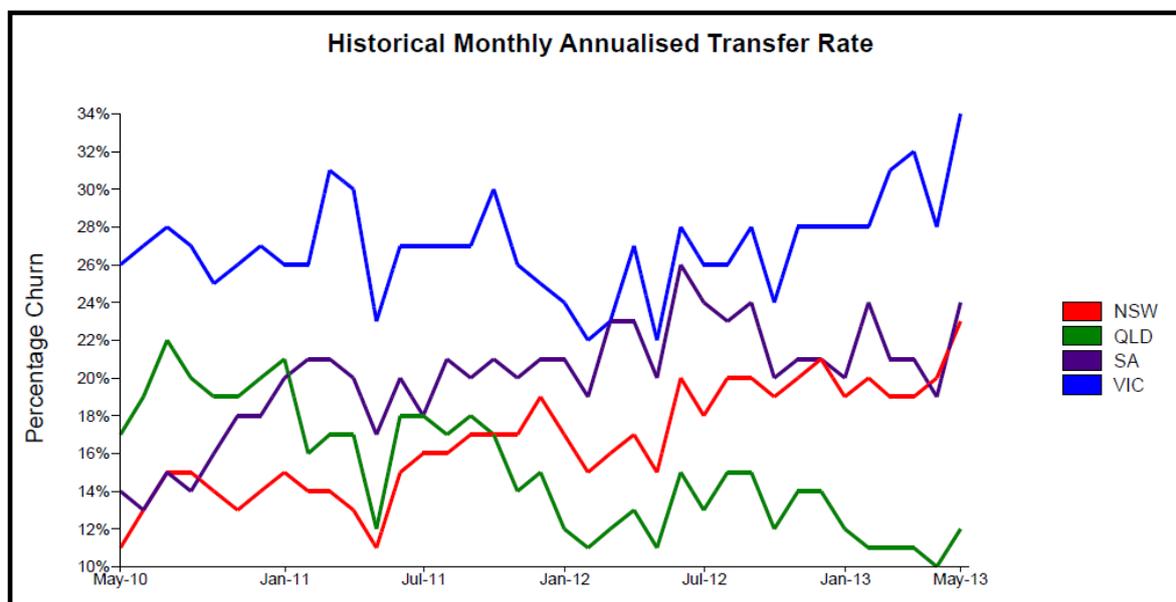
The Commission has also suggested that if the FiT Premium is deregulated, it is possible that some retailers may choose not to offer a FiT Premium, thereby reducing the degree of customer choice. AGL does not agree with this suggestion. In AGL's view, a retailer's decision to participate in the solar PV market is not dependent on whether the FiT continues to be regulated or not.

Issues of competition and market power

According to the Commission, the decision to deregulate the FiT Premium can be made only after analysing competition in the relevant market and, in particular, the existence of market power and the potential for it to be misused. AGL is of the view that there are clear indicators that the market in which electricity is retailed remains competitive, as it was found to be in 2008 by the AEMC.

In 2008, the AEMC³ found that competition was effective for small electricity customers in South Australia and had recommended the removal of price regulation. At the time, the AEMC showed that 34% of customers remained on regulated tariffs with AGL holding the largest market share of 56%. In the Statistical Update – Energy Retail market – December 2012 Quarter, the Commission has published information showing that only 19% of customers now remain on standing contracts with regulated prices and AGL's market share has reduced to 51%.

In the latest National Electricity Market - Monthly Retail Transfer Statistics, May 2013, the churn rate in South Australia continues to remain high, second only to Victoria (see chart below). This churn rate in South Australia has remained the second highest in the NEM since 2011 – higher than that in NSW and QLD.



¹ IPART, *Solar feed-in tariffs – Setting a fair and reasonable value for electricity generated by small-scale solar PV units in NSW – Final Report*, March 2012

² QCA, *Estimating a Fair and Reasonable Solar Feed-in Tariff for Queensland – Final Report*, March 2013

³ AEMC, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia – First Final Report*, 19 September 2008

The level of discounting has also been high. The AEMC report in 2008 had found discounts of up to 7%. In recent years, the level of discount has risen above 15%. Currently, AGL offers discount of up to 10%.

Finally, more retailers have taken up a retail licence in South Australia. There are currently about 20 retailers licensed compared with 13 retailers mentioned in the 2008 AEMC review.

In summary, an examination of the following factors:

- market share,
- churn rates,
- level of discount, and
- number of customers

shows that the retail electricity market in South Australia is highly competitive. It can be concluded that since 2008, when the AEMC had found competition to be effective in South Australia, the retail electricity market has become even more competitive. Therefore, price regulation is no longer necessary.

The costs and benefits of regulation

IPART⁴ has recommended against setting a mandated value and instead recommended a benchmark range for the solar FiT Premium. In IPART's view, "this light-handed form of regulation is the most appropriate response given the risks of regulatory intervention compared to the risks of no regulatory intervention, and the relative seriousness of these risks for customers, retailers and competition... In contrast to the supply of electricity, access to a feed-in tariff is not an essential service. That is, customers have a choice about installing PV units ..."

QCA⁵ has also taken a similar approach in not setting a regulated minimum feed-in tariff for South East Queensland on the basis that there is no compelling evidence to do so.

AGL agrees with IPART and QCA's views and, given that standing contract prices in South Australia are no longer regulated, the continued regulation of a subset of this market could lead to market inefficiencies in the form of cross subsidies and regulatory costs. The Commission has noted that if the regulated FiT Premium is too high, the difference may be funded through higher prices paid by all customers.

The Commission has also noted that an option, if regulation is to be continued, is for the Commission to set a relatively low FiT Premium – if retailers would voluntarily offer high amounts that better reflect the fair and reasonable value of the energy generated by solar PV units. In NSW, IPART set the Solar Bonus Scheme retailer contribution for 2013/14 at the lower bound of the fair and reasonable solar FiT range. This conservative approach reduces the risk that the FiT premium amount is set too high, and therefore minimising the risk of adversely affecting competition. If this approach was employed in South Australia the risk would remain that the regulated FiT Premium could be set too high, and therefore AGL remains of the view that deregulation is preferable.

Conclusion

The key question that the Commission has raised is whether it is in the long-term interests of consumers for the Commission to continue to regulate the FiT Premium beyond 1 January 2014.

The retail electricity market in South Australia is highly competitive, and given that standing contract prices are no longer regulated, there is no further requirement to regulate the solar FiT Premium. In addition, access to a solar feed-in tariff is not an essential service, unlike the supply of electricity. The continued regulation of a subset of the market creates inefficiencies for the retail electricity market especially the risk of setting a FiT Premium too high.

⁴ IPART, *ibid*, p 91

⁵ QCA, *ibid*

If you have any questions in relation to this submission, please contact Meng Goh on (02) 9921 2221 or mgoh@agl.com.au.

Yours sincerely,

A handwritten signature in black ink that reads "Beth Griggs". The signature is written in a cursive style with a small dot at the end.

Beth Griggs
Head of Energy Market Regulation